

# SELECTBOARD MEETING DECEMBER 19, 2011

**Present:** Chairman Paul Rooney; Selectperson Denise Lindahl; Administrator Barbara O'Leary; Town Clerk Jeanine Tucker; Surveyor Dan Small; Code Officer John Larson; Citizen Bart Calder; Planning Board Chairman James Nealey; citizens Ashley Landry and Tamara Landry.

## **Citizens' Concerns:**

Peter Dalton spoke to the Board about concerns he has with how plowing is being handled on Leeman Drive. Dalton said that he has been residing at that location for nine years and in recent years the service he has been receiving is not acceptable. He stated that in the last storm the road was only plowed with one swath down the center and no return trip was ever made to completely open the road for two lanes of traffic. Dalton added that he has an 85 year old relative residing with him who has health issues and worries that an ambulance may not be able to get to his property due to the plowing contractors lack of effort. Chairman Rooney explained that the contractor, Bob Patterson, had been in attendance at the last meeting and the Board did in fact address this road issue, as well as other less traveled roads with him. Rooney thanked Dalton for taking the time to bring it to the Boards attention.

## **Dan Small/Temple Heights Survey:**

The Board had asked Dan Small to survey the Temple Heights area of Mountain Street and High Streets where the recent drainage project had been done. There were concerns by residents that the road had been narrowed and moved in certain places. Small conducted the survey and had discovered that the road had narrowed in places as much as two and a half feet. Small also noted that the road had shifted to the same degree but the shift was still within the easement portion of the agreement. Chairman Rooney asked Small if he had provided a copy of the final survey to Town Attorney William Kelly. Small said that Kelly has a preliminary copy of the survey. Rooney asked Administrator O'Leary to provide Kelly with a copy of the final survey and to get his input on the results. O'Leary was also instructed to ask Kelly what his recommendations would be pertaining to Small placing pins at intervals to mark the easement section. Rooney then explained to Ashley and Tamara Landry that O'Leary will contact him after she hears back from Kelly.

Mr. Landry asked what would be done about the Charlie Dhyse driveway. His concern is that water flow off the property will affect High Street and that it goes against the drainage intent. Landry was told that the Board would discuss that issue as a separate matter and that it has nothing to do with why the survey was requested.

Administrator O'Leary informed the Landry's that the meeting dates for the month of January have been rescheduled due to holidays and will now be held on the 9<sup>th</sup> and 23<sup>rd</sup>.

## **Code Officer/Ron's Towing:**

Code Officer John Larson was in attendance to discuss and make the Board aware of an agreement he had offered Linda Bassano. Bassano owns the property on which her son, Ron Watkins, has established a towing business without going through Site Plan Review. Larson told the Board that Bassano was supposed to arrive at the meeting to sign this settlement agreement in an effort to stop the 80K Court proceedings. Larson told the Board that since Bassano did not attend they could ask that a Temporary Restraining Order be placed requiring that all operations cease. Larson assured the Board that the Town, through the Code Office, has done everything it can to assist Ms. Bassano and Mr. Watkins in the process of starting a business, the rest is up to them as applicants and proprietors.

Larson stated that he did place restrictions on them that they have responded to such as covering the Ron's Towing sign and limiting the number of vehicles on the lot to no more than 4.

Neighboring resident Bart Calder informed Larson that the sign on the garage had not been covered. Board member Denise Lindahl asked if Bassano or Watkins had made any Planning Board meeting, Larson said they have not and the original violation goes back to this past July. Larson added that aside from failing to meet the Site Plan criteria they would also need Select Board approval for the salvage lot. Since Bassano failed to attend the meeting and sign the agreement the 80K Action remains in effect and the case will go to court.

Larson also suggested that a Temporary Restraining Order could be placed by a Judge. If one were placed and the business continued to operate they would be in contempt of court. Denise Lindahl asked how long a time a restraining order could be in effect; Larson stated that it would be in effect until the entire process is completed. Larson continued by explaining that he, Linda Bassano and Kristen Collins all sat down together in the Town Administrators office a week prior and went over a timeline for completion so Bassano is aware of all steps necessary.

**Under motion** by Chairman Rooney second by Denise Lindahl the Board voted 2-0 to have Larson talk to the Judge about placing a Temporary Restraining Order against Linda Bassano & Ron Watkins for Ron's Towing.

**Wilson 80K Action:**

Larson updated the Board on the Richard Wilson 80K case. This matter is set to be heard first thing in the morning and a final decision should be made at that time. Larson reminded the Board that this matter, involving a failed septic polluting the bay, went on for over a year from the time of the first Notice of Violation that was ignored. The Wilsons continued to ignore it until they were served the summons to court. Larson said he needed to know what the Board wanted to require of Wilson regarding restitution. He asked if the Board wanted strictly legal fees, or would they like to see fines imposed as well. He continued by explaining that the clam flats have been closed because of the pollution from the failed system. Chairman Rooney told Larson to press for fines as well as legal fees, acknowledging that the Judge may disregard either.

**Planning Board Input:**

Since James Nealey, Chairman of the Planning Board, was present the Select Board asked him for input on the Site Plan Review process and ordinance. Nealey commented that there are certain times where he feels that an applicant should not be required to go before the Planning Board. He continued by explaining some changes of use could be filtered by the Code Officer, in a case where traffic flow or overall impact of the business were to decrease the Code Officer could verify that the applicant has obtained the necessary Dept. of Transportation Entrance Permit or that other criteria has been met. Nealey added that for a simple change of use the Planning Board is an unnecessary expense to the Town. Larson stated that by having the applicant go through the Planning Board process is to allow for public input as part of due process.

**Driveway Permits:**

Larson explained to the Board that he believed it would be a good idea to review the ordinances and include a specific section for Driveway Permitting. Larson stated that he noticed the only instances where driveways are mentioned are in subdivisions portions of ordinances.

**Roads & Bridges:**

**Salt/Sand:**

Road Commissioner Amon Morse reported to the Board that the last of the sand from the old site should be moved to the new shed the following day, along with the remaining salt that the Town had ordered.

**Mailbox:**

Morse told the Board that Leslie Michells' mailbox was mounted on a 2"x4" and not mounted to an actual post. Morse asked the Board how they wanted to handle the matter explaining that one reason why it would be leaning would be because it is only a plank driven into the ground rather than a post that had been set. Chairman Rooney told Morse that if Michell were to buy the 4"x4" post needed to correct the situation the Town would install it. Rooney asked Morse to find out what the measurements would need to be and report that to Administrator O'Leary, he then advised O'Leary to contact Ms. Michell regarding the proposed agreement.

**Administrator's Report:**

**Assessors:**

O'Leary informed the Board that R.J.D. Appraisals had recently done their quarterly review and reported a \$128,000.00 net gain. She stated that they will continue to do monthly reviews until spring when they resume with a more extensive review.

**Transfer Station:**

O'Leary updated the Board on the recent E-Waste pick up. She informed them on the additional materials that can now be included as E-Waste, such as E Readers and Gaming Consoles. The cost of each was suggested at \$3.00 per item. Rooney asked if the inclusion of the new items required an amendment to the Dept. of Environmental Protection agreement the Town has for the Transfer Station. Board member Denise Lindahl replied that it would not since the Town is already using a licensed contractor.

**Old Business:**

**Dog Cases:**

O'Leary updated the Board on what she had learned about the recent change in policy at District Court requiring a Municipal Ordinance Violation case to be represented by the Town Attorney. In the past the Animal Control Officer always had the authority to represent the Town on a violation of the Animal Control Ordinance. However, the District Attorney will no longer allow A.C.O.'s to represent the Town and is requiring the Town Attorney be present. O'Leary said that Kristen Collins of Kelly & Collins, LLC, the Town's Legal Counsel, suggested that any violators be notified by form letter referencing statutes, on Town letterhead, what fines and legal fees are involved when being prosecuted for a violation. Collins also suggested that violators be offered the opportunity to pay a reduced fine at the Town Office rather than having the matter go to court. Lindahl asked O'Leary if this was a result of the barking dog case from the past summer. O'Leary confirmed that it was and the case was dropped because the Town Attorney had not been notified of the policy change and was unavailable the day of the trial. Lindahl then asked if the ordinance needed to be changed, O'Leary stated that it is already in the ordinance. Rooney then suggested that the proposed letter include the Town ordinance as a reference.

**Saturday Cove:**

O'Leary updated the Board about the recent use of Saturday Cove. She was able to confirm the same landscaping company that used it last year had to revisit the property on Seal Island and had not sought permission to use the dock ahead of time. When O'Leary spoke with the company she was assured that they would have the basin re-leveled with a plastic roller and that it has occurred at other docks they have used. O'Leary was told that it is not uncommon to have a bowl effect created from the propeller wash as the vessel docks.

**Salt/Sand Shed:**

O'Leary said that PDQ Door had to wire the garage door opener as the electrician had not done so. She was told by the company that they will bill the electrician for services. O'Leary stated that she had contacted Bill Lane of Gartley & Dorsky about the discrepancy so he could follow up with the contractor.

**Snow Plowing:**

The Board asked O'Leary to draft a letter to residents of the Temple Heights area asking them to please refrain from parking on the roadside during storms, the letter should state that failure to remove vehicles will result in the road not being plowed. O'Leary was also asked to forward the Leeman Drive complaint directly to Bob Patterson, who had been contracted to plow for the Town.

**Insurance:**

O'Leary asked the Board for their input on the current insurance matter. Despite multiple requests to the current insurance agent for the Town no information was being provided that could show exactly what the Town is and is not covered for. O'Leary continued by explaining that since she and Town Clerk Jeanine Tucker had been conversing with Marcus Ballou at Maine Municipal about a quote for insurance from them she had not realized just what little information the Town had been presented for its insurance coverage. Ballou offered helpful suggestions on what to look and ask for. O'Leary added that the Allen Agency was not providing any answers nor were they responding. Her inquiry to the Board was do they want to continue on with the current policy not knowing exactly what coverage there is or would they prefer to cancel the existing policies in lieu of coverage with M.M.A. noting that the existing policies have staggering coverage dates and the M.M.A. policy would always expire on June 30<sup>th</sup>.

**Under motion** by Denise Lindahl, second by Paul Rooney the Board voted 2-0 to discontinue coverage with the Allen Agency and opted for the proposal from M.M.A. effective January 1, 2012.

**Wyman Needy:**

Town Clerk Tucker discussed the annual expenditure from the Wyman Needy fund to families that could use a lift this time of year. Tucker said that under the advice of Bookkeeper Vicki Eugley it was decided that the allotted amount be scaled back this year in an effort to prolong the funds as they are being depleted. Chairman Rooney asked Eugley if that is a fund that can be replenished through the budget, Eugley confirmed that it could.

**Under motion** by Denise Lindahl, second by Chairman Rooney minutes of the November 7<sup>th</sup> & 21<sup>st</sup> meeting were approved with corrections.

Warrants were reviewed and approved.

It was decided that meeting dates in February would be the 6<sup>th</sup> and the 27<sup>th</sup>, a change due to Presidents Day.

**Under motion** by Denise Lindahl, second by Chairman Rooney the Board voted 2-0 to adjourn at 8:35 p.m.

Respectfully Submitted,

Jeanine Tucker  
Town Clerk