

Selectboard Meeting Nov 21, 2011

The meeting was called to order at 7:00 PM, present: Noreen Suriner (Chair), Alan Vint (Clerk), and Mitch Feldmesser.

Administrative Assistant, Duane Pease, was on vacation.

Phone messages (presented by Alan, taken by Marge Batorski):

- Atty. Lynch confirmed his attendance at the 12/5/11 Selectboard meeting.
- Theresa Peterson of Gannett Fleming (Engineering Consultants) requires access to the Town Hall for evaluation with regard to Green Communities grant photo voltaic project. Alan will meet with her on Monday, Nov 28.
- Mike Whittaker from G4S Technologies called to introduce himself and the company. They have been contracted for the design and build of the broadband system so we will start seeing their trucks around town in the near future.

Mail:

- Letter received from MA DOT regarding bridge inspection. Referred to Skip.
- Received MA DOT documents to be completed for Chapter 90 reimbursement. Referred to Skip.
- Notice of next Selectmen's Association dinner to be held on 12/7/11 in Northampton. All Selectboard members are planning to attend.
- Letter from Comm. of MA re: services available and to be provided to veterans. Referred to Ray Gero, Veterans Agent.

Warrant #WP9A dated 11/2/11 in the amount of \$12,476.58 reviewed, approved, and signed by Noreen, Alan, and Mitch.

Minutes for Selectboard meeting of 11/14/11 approved with changes and signed.

Alan moved to accept the "Valley Vision" plan provided by PVPC and endorsed by the Planning Board. Mitch seconded, voted: all in favor.

Open Forum:

A variety of concerns related to the status of Harry Pease Rd were conveyed by numerous property owners in attendance.

- Marie Pease - Expressed concern about who is looking after the town's interest in this matter and whether it's wise for the Selectboard to meet with a property owner's attorney in the absence of town counsel.
- Tim Pease - Suggested town counsel should be present to prevent the Selectboard from inadvertently compromising the town's position in such a meeting.
- Mitch advised that he'd spoken with town counsel that day and they had voiced a similar concern. It was suggested that the Board listen, but not engage in discussion.

- Alan advised that the Board had decided to invite the property owner's attorney and surveyor to attend a Selectboard meeting as the Board was in receipt of a follow-up request for response prior to the attorney filing in court. Alan estimates the expense for town counsel to address the road issue could run tens of thousands of dollars so the Board has been trying to be judicious in their use.
- Paul Richardson - Thought the status of Harry Pease Rd was settled in 1983.
- Marie Pease and Noreen both advised that was not factual.
- Ray Gero - Believes litigation already started.
- Larry Pease - Thought the matter had been settled by prior Selectboard but the property owner is trying to force a change.
- Alan responded that the matter had not been settled as the last letter from town counsel to the prior Board states that she couldn't make a final determination based upon the material provided.
- John Williams - Made note of the fact that many residents of Harry Pease Rd were in attendance and concerned. He asked whether the Selectboard had the power to close the road?
- Alan and Noreen answered that the Board could not make the decision to close a road, by state law roads can only be discontinued by a public vote at a town meeting.
- Carol Varsano - Thought Harry Pease Rd was voted discontinued [beyond their property] in 1984.
- Alan responded that the 1984 town meeting intended to discontinue but it is unclear whether the format used would stand up in court and the 1886 vote was to "shut up", not discontinue.
- Stephen Salvini of Chester, professional Land Surveyor - Stated there is a good case that it's a road and suggested the town review its zoning bylaws related to development as it is the responsibility of the developer to make upgrades consistent with state and local codes.
- Ray Gero - Related his experience with road issues in Peru in the '70s.
- Howard Knickerbocker - Questioned the town's liability to landowners if we vote to discontinue.
- Noreen responded that is one of the aspects the Board is investigating.
- Alan responded that his understanding is that there aren't statutory damages.
- Maureen Sullivan - Asked about the possibility of a 'middle ground' solution that would allow limited access.
- Alan responded that a "Statutory Private Way" may offer that kind of approach.
- Tim Pease - Stated that the Jamula property is not landlocked, it has frontage on Alderman Rd and Chester Rd.
- Steve Salvini - Stated it should be noted that when the town discontinues a road it discontinues public access but the abutting property owners retain their access via the road.
- Larry Pease - Questioned whether Mr. Jamula has proven it's a public road?
- Alan responded that documents have been submitted in support of both positions.
- Marie Pease - Expressed concern that the current situation puts property owners in limbo.
- Alan responded that the Board is trying to resolve the issue properly so it's done forever.

- Mitch - Stated it might make sense for the town to 'sit out' and let the parties go to court.
- Alan feels it would be folly not to have representation.
- Marin Laurel-Paine - Stated that the way to make it go away permanently is to do it right this time.
- Noreen responded - That is the Board's goal so they've been trying to exhaust all avenues and be as informed as possible before going forward.
- Marie Pease - Wants to note that we're talking about two different roads, one being Harry Pease and the other having been called by various names including Meacham, Coombs, Meeker's, Old Rd, etc.
- Tim Pease - Noted that the only thing referring to the disputed portion as Harry Pease Rd is the Assessor's map which isn't binding. No documents refer to the "old road" as "Harry Pease Rd".
- Howard Knickerbocker - Offered that in the 1920 census, what is now called Harry Pease Rd was referred to as Center St.
- Ray Gero - Said it's important to address all similar roads in town so as not to single out one property owner.
- Alan - Reported input from Alexandra Dawson, a retired attorney with particular expertise in road matters. Based on the documents provided her, a road was laid out in 1805 but she doesn't see conclusive documentation of it being accepted as a public way. The term "shut up" used in the 1886 vote is not relevant and should not be part of the discussion. She emphasized that this is not a Selectboard decision to make and recommends that the matter now be referred to town counsel.
- Alan suggests contact K&P and request they provide a cost estimate, as well as their input on attending the BOS meeting on 12/5/11. Mitch and Noreen agreed, Alan will contact Jean McKnight.
- Tim Pease stated there are several "roads" in town that could raise issues in the future.
- Marie Pease - Reiterated the need to look into all "roads" that may be problematic.
- Marie Pease - Will provide the Board with a copy of Mr. Jamula's letter where potential sub-division of his property is mentioned.
- Carol Varsano - Asked why bother to meet with the property owner's attorney if the town's intent is to discontinue the road?
- Steve Salvini - Re-iterated his certainty that the person who wants to develop is responsible for bringing the road and utilities up to standard, or the town could possibly do the work and assess the beneficiary with a use tax to cover the expense.

End Open Forum

Update on responses to the questions contained in the letter previously received from the Investigator General's office.

- Maureen Sullivan gave the Selectboard a letter regarding the Planning Board computer.
- Noreen received an email from Charlie Hunter, former BOH Agent, with his response to the relevant item. Alan suggests that the final response come from Charlie and that the Board not edit it in any way. Noreen will request a formal letter from Charlie.

- Noreen has received written responses from the Board of Assessors and the Highland Agricultural Society. She will mail the complete response package to the IG's office when she has received the letters from Charlie Hunter and the Middlefield Food Co-op.

The proposed building use policy was posted for comment on the town website. Alan suggests it be posted in hard copy at the usual sites. All agreed, Alan will post copies.

Email received from Ron Berenson, Deputy Tax Collector, updating the status of his collection efforts. He would like the Board's input on next steps to be taken in light of consequent expenditures. Also noted that he is awaiting receipt of a "Petition to Foreclose" from the Treasurer. Copy of email put in Treasurer's box for follow-up.

Discussion of HCCOG invoices for membership and inspections. Alan feels bills should not be paid as we're not getting service.

- Alan moved to approve payment of 1/2 of \$3185 (half of the invoice amount) on the July-Sept invoice and include a note with the payment stating that there was poor service for two of the three months covered by the bill. Seconded by Mitch. Voted: Alan and Mitch in favor, Noreen opposed, motion passed.
- Discussion of HCCOG's invoice for the Oct-Dec quarter tabled.

Mitch spoke with Atty Silverstein at K&P re: business permits and zoning. Counsel advised that an activity is not "grandfathered" unless it was ongoing prior to enactment of a by-law governing it. Counsel further advised that state law establishes a number of parameters for used car dealers, including a requirement that parties have a Class 2 license granted by the town and renewed annually, that a bond be posted, etc. Counsel suggests the Board send letters along with Class 2 license application forms to anyone known to engage in the sale of used vehicles in town. Mitch will draft a letter for Board approval.

Alan moved to adjourn. Mitch seconded, all in favor. Meeting adjourned at 9:25 PM.

Respectfully submitted,

Sherri Venditti