

Selectboard Meeting  
December 5, 2011

Meeting opened at 7:00pm

Present: Noreen Suriner, Chair; Alan Vint, Clerk; Mitch Feldmesser  
Duane Pease, Administrative Assistant

Attorney Jeffrey Lynch was present to address the Board regarding the Harry Pease Road issue. Attorney Lynch represents Mr. Jamula and Steve Harris. James Smith, Professional Surveyor and Engineer, who did most of the research on the road status for Lynch, was also present.

Both Lynch and Smith went through an extensive history on the road, starting with its inception while still part of the Town of Becket in 1780. Smith's research had him researching from Colonial times, reading through Town Reports and reviewing maps in Becket and Middlefield. He also referred to the History of Middlefield written by E.C. Smith. Lynch also referred to a Land Court case in 1984 regarding Harry Pease Road. There were 2 sections of Harry Pease Road (HPR), the North-South (N-S) and the East-West (E-W).

Prior to 1846 an owner would build a road, open it to the public and ask the Town to accept the road. The Town could either accept or not accept and this was the standard thru the early 1900's. There was no statutory authority until 1924 that allowed a Town to stop maintaining a road that was not discontinued and that once a road was established it remained a road until there was a vote to discontinue it. The 1886 vote to "Shut Up" the road has no meaning in the Mass Statutes. Lynch said that "Shut Up" was used to block off or make inaccessible non-public roads when their use was not in the public interest for many reasons.

**Noreen** questioned how Smith determined the N-S and E-W sections connected.

It was answered by referring to property ownership, deeds and various old maps which show HPR in existence.

Attorney Lynch also stated the 1984 Town Meeting vote which listed the accepted roads in town was not a vote to discontinue those not mentioned because a vote to accept roads does not mean the roads not listed were discontinued. That vote did not accomplish anything nor take away anything. He would like the Selectboard to acknowledge HRP is a public road.

Mitch asked whose responsibility it is to bring the road up to standards.

Lynch stated the municipality has the responsibility to maintain the road and that failure to maintain a road does not discontinue the road. Mr. Jamula has upgraded the road from Alderman Road to his property.

There was further discussion on how many maps show HPR as a dead-end starting in 1887, this could be based on the "Shut-Up" vote in 1886. Smith was also questioned on how precise he could be by going by the old deeds when many of the identifying locations no longer exist, he responded by saying he balanced all the evidence, observed old stone walls and some of the prior surveys that had been done which were quite good.

Lynch said it was important to recognize the property rights of the land owners on the road.

**Noreen** questioned the consequences, pro and con, of HPR.

Lynch answered he had done all the research on the road, Chapter 90 Funds would be increased and available for improving the road and there could be further development on the road for the town. If the Town disagreed, he would file a Declaratory Judgment in either Land Court or Superior Court to force the Town to maintain. By presenting all his evidence, he has tried to make the decision easy for the Town.

**Noreen** also asked what would happen if the Town voted to discontinue and if there was an option to only open one end of HPR and not make it a through road.

Lynch responded by saying in his own opinion if the road were to be discontinued, the Town would owe damages to the property owners affected by that decision.

**Smith** said it was a practical solution to make the road a through road as the area could be built up over a period of time.

Attorney Lynch and James Smith were thanked for their presentation and departed.

During the **Open Forum** Ms. Savoy asked if the Board had acted on a letter she sent in, she was advised the letter had been forwarded to the Health Agent and she was working on the issues under her jurisdiction. Also, it had been submitted to the Building commissioner but is moving slowly.

**Alan** said the Planning Board is engaging the Pioneer Valley Planning Commission to help rewrite the Zoning By-Laws.

**Marge Batorski**, Town Clerk was present with **Eleanor Doyle**, Eleanor has been sitting with Marge and learning some of the duties of a Town Clerk and has accepted Marge's invitation to become her assistant. The Town would have to appropriate money for her salary.

**Mitch** stated a Special Town Meeting warrant would be needed to appropriate the money. Eleanor said she would be willing to work until the salary issue could be resolved.

**Noreen** motioned to appoint Eleanor as Assistant Town Clerk, Alan 2<sup>nd</sup>; vote was 3-0 in favor.

Eleanor will be sworn in and was advised she would have to complete the State Ethics test within 30 days.

**Alan** also said he spoke with Len Kopelman of Kopelman & Paige and Attorney Jean McKnight will review the materials he sent regarding Harry Pease Road at no charge.

**Jackie Duda**, Health Agent, visited an allegedly illegal cabin on Ryan Road with the complainant but only viewed it from the road. She said it does not appear to have a septic system. Alan felt it may be better to have a Board of Health member go with her the next time she goes there.

On December 15<sup>th</sup>, there will be a presentation to the Green Grant Communities in Deerfield and all are welcome to be attend.

Also, the **Building Usage Policy** was discussed regarding the Senior Center. Perhaps because of State Grants, the Center can't charge any fees but can accept donations. Modifications will have to be made for Senior Center usage.

The upgrade costs of the computer system in the Town Hall were reviewed, it was found that the hard wire installation costs were \$5,160. In the future, it was suggested the Board be more involved in any improvements.

The **Expense Warrant** in the amount of \$17,696.92 was approved.

**Sherri Vinetti** said she found a web site listing the Building Commissioners that are licensed by the State and that is a valuable asset in the Town's search for one.

There will be an Executive Session at the next meeting.

The minutes were approved on a motion by Mitch, 2<sup>nd</sup> by Noreen, vote was 3-0.

**Alan** motioned to adjourn, Noreen 2<sup>nd</sup>, vote 3-0 in favor. Meeting adjourned at 10:07pm.

Minutes respectively submitted by,

Duane Pease  
Administrative Assistant

Minutes approved with/without changes

Noreen Suriner, Chair

Alan Vint, Clerk

Mitch Feldmesser