

MINUTES OF THE SELECT BOARD
Monday, June 3, 2019 – 7PM

Present: Damon Frampton, Chair, Tom Maher, Selectman, Pam Cullen, Secretary.

Also present: Ken McDonald, TAPC, Christiane McAllister, Accountant, Tom Smith, Jim Cerny, Dave McGuckin, Carl Roediger, Anne and Mike McAndrew, Gary Rumph, Guy Stearns, Jean Smith.

Absent: Selectman Stewart.

1. Approve Select Board Minutes of May 20, 2019.

Selectman Maher made a Motion to Approve the minutes of May 20, 2019 as amended. Chair Frampton seconded, and the motion carried. Selectman Maher will forward the May Fire Department Report to Pam and to BJ to be included as an attachment to the May 20th minutes.

2. Public Questions and Answer:

Pam Cullen stated that the Town Clerk had asked her to query the Select Board as to when she should start collecting the new \$5.00 fee.

Selectman Maher stated he had already sent a letter to the Town Clerk to begin collecting the recently approved \$5.00 fee per motor vehicle for registrations on July 1, 2019, which is the beginning of the new fiscal year. Chair Frampton approved the beginning date of July 1, 2019.

3. New Business:

a. Spring Hill Road and Lavenger Lane.

Ken McDonald provided a report. He explained he was asked by the Select Board to research ownership issues relating to Spring Hill and Lavenger Lane. He explained he is not a lawyer and is not officially taking position on behalf of the Select Board, but is just reporting the results of his research from the Rockingham County Registry of Deeds. He reported on the La Rose deed which was recorded in March 1948 consisting of 8.8 acres and the registry deed reference is Book 1099, Page 494. The La Rose's subdivided, and initially gave or sold lots to family members, and then made them available for the general public for purchase. The plan reference was D-2172, dated February 1971. He was not able to locate any deeds specific to the actual roads. In checking with the Probate Office, to request to see the last will and testament of Loring and Lucille La Rose. Both of them listed Judith Sawyer as an Executor. In the event she was unable to serve as executor, then they listed Steve Sawyer as the successive executor. It has been determined that his last address was in Chichester NH. He has been serving as executor of the Loring P. La Rose Revocable Trust, and the Lucille La Rose Family trust. It appears he has sold land, received funds from homeowners and given easements with respect to the roads. Based upon his research, Ken concluded that the residents of Spring Hill and Lavenger as well as the Town do not own the roads in question. The roads are unsold, undeeded, original assets, which remain within the La Rose trust. Steve Sawyer is fulfilling his role as successor-executor, specifically with respect to giving easements and collecting fees to hook up to the sewer

line, which was installed by the La Rose family. Ken believes the research show that the Trust actually owns the road.

Tom Smith who also researched this issue with Ken, reported that in the last will and testament there was a statement that they give all their possessions to the Trust, confirming that the Trust owns Spring Hill and Lavenger Lane.

Selectman Maher noted that it has been established that no property taxes have been paid. The trust clearly owns the road, but if there is a need for work to be done, the individual homeowners have been picking up the cost in some instances. He wondered if this meant the homeowners were responsible. Ken noted he is not giving a legal opinion, only reporting the findings of his research. He thinks the next step is to notify the Trust of the current problems. Tom stated that Avitar, the Town's assessor, is looking into this and will be assessing the area and forwarding a tax bill at the end of this year.

Pam Cullen, Administrative Assistant and Secretary to the Select Board reported on her discussion of these issues with the attorney from NHMA (New Hampshire Municipal Association). It was the attorney's opinion that the Trust still owns the road. The Town does not have any authority over Spring Hill Road or Lavenger Lane. Also the attorney stated the Town can't go after back taxes. He cited the NH case of Clamp v. Jaffery at 97 NH 456 for the proposition that The Select Board cannot expend Town funds on private property. She also stated he referenced NH RSA 231 relative to the laying out of highways and differing classes of roads and highways. Carl Roediger spoke with the Rockingham County Planning Commission about the issues and the person from the RPC asked what the assessor had to say, which is of course part of the problem. He felt that it was town error in that the subdivision plan should not have been accepted as presented. Pam stated that in her years as a tax collector, no Map and Lot numbers were given to any of the roads in subdivisions.

Guy Stearns asked about the trustee Sawyer, and if he was both a beneficiary as well as trustee. Ken replied in the affirmative, but again stated he is not giving any legal opinion. There was further discussion about this, and other parcels in the subdivision. Selectman Maher reiterated the need for Avitar to proceed with its review and assessment. Ken is going to continue his research. Pam noted that the minutes of Selectmen meetings were very brief at the time, and probably won't yield much information. Tom Maher stated there are several steps in the process going forward. This was in response to Guy's question about assessing a value to the properties and taxing them. Carl Roediger says in the interim they are in the same boat they were in 10 years ago. If the water line blows, it appears no one has authority. He suggested with respect to the pot hole, that if the Town contacts the trustee, that the town fix the pothole and bill the trust.

Chair Frampton stated Tom Maher reached out to DOT who came by and said the Town could not fix it, as it is a private road. Chair Frampton stated the Town would not be fixing the road. He wondered why it has taken this long and no one on the road has come forward to find a solution. Carl Roediger questioned this decision. Gary Rumph feels it is not their responsibility to fix it. Dave McGuckin suggested forming an association like other

private roads do. Carl pointed out that because the homeowners don't own the road, forming an association would make no sense. Further discussion ensued. Guy Stearns stated that attempts have been made in the past to form an association but not all homeowners wished to do this. Carl reiterated his position that the Town needs to take the lead to contact the trustee and notify him that a tax bill will be forthcoming. Pam reiterated that it is not the Selectmen's problem at this point, but the trust and the homeowners who need to resolve this. Selectman Maher said his personal view is that the Select Board should drive some resolution. Ken will continue his research and report back at the next meeting. He also said this should all be run by legal counsel for the Town. Chair Frampton said the Town will not fix the road, but will proceed with the research and legal review, and there will be further discussion.

b. Wild Rose Lane to Rogers Blvd.- Ken McDonald.

Ken reported the sidewalk is almost done. All that remain to be done is loam and seed and some landscaping. Residents would like to clean up the land abutting the sidewalk. As it is Town owned, Chair Frampton stated the Board would take the matter under advisement. Chair Frampton and Selectman Tom Maher thanked Ken for all his work on this project.

c. Town Computers- Ken McDonald.

Ken forwarded an Email to the Board with the details. The BOS needs to decide whether to authorize Ken to go with Justin Mayrand's recommendations on the computers or Staples. Christiane supported Justin's position. Selectman Maher believes it is time to meet with Justin and discuss next steps. This matter will go the Agenda for the next meeting.

d. MS 232- Voted appropriations.-DRA

Christiane provided the document for signature.

e. Fixed Asset Policy -draft.

Christiane provided the Select Board with a draft. This policy is designed to correct the deficiencies indicated by the auditors for capital assets. The Board should review and accept the policy before the end of the fiscal year. This will be in the Agenda for the next meeting.

f. Acceptance of Gift for Safe Path.

The Select Board voted to accept a gift of \$500.00 for the Safe Path.

g. Motor Vehicle Fee Notice:

Christiane stated that the Town Clerk asked her to request that the Select Board get out the information on this additional fee. Chair Frampton said it will be out on the Town's Website. Tom will meet with Priscilla to get the language needed for the notice. This notice will also be mailed out with the regular monthly renewal notices.

h. Financial Updates from Accountant:

88.5% of the budget has been expended. No motion to prevent lapsing is needed this year. Revenues have exceeded amounts in certain areas: \$15,000 Motor Vehicles; \$16,000 Building Permits; Sale of Cemetery lots: \$29,000. With respect to Expenditures: 63%

Planning Dept; 14% Police; 22% Fire Dept; 30% Highways and Streets; 31% Common; 59% Conservation. She reported the Town is in good shape.

i. Appointments to Boards.

Pam provided a list of three year appointments which need to be done. Pam has yet to do the Cemetery list. Jim Cerny had submitted an appointment at the last Select Board Meeting.

j. Water Update.

Selectman Maher stated there is a bid meeting in June. This will be highlighted on the website.

Other Business:

Ken McDonald asked permission to send a letter to La Rose trustee Steve Sawyer regarding easements (Abigail and Lavenger) for the loop system. Tom noted we are only allowed to connect two private lines. He asked Ken to check with Selectman Stewart prior to sending any letter. Dave McGuckin suggested not doing this at this time. Selectman Maher agreed. We need to continue the research and get the answers. There was a brief discussion about other private roads which are not currently being taxed. Ken will doing research on this subject.

There being no further business to come before the Board, Selectman Maher made a Motion to Adjourn, which was seconded by Chair Frampton. Motion carried.

Meeting adjourned at 8:19 PM.

Respectfully submitted,

Bette Jane Riordan
Recording Secretary.