

FINAL

**BOARD OF SELECTMEN'S MEETING**

**NOVEMBER 3, 2003**

**7:30 PM – MUNICIPAL OFFICE BUILDING – HANOVER, NH**

The meeting of the Board of Selectmen was called to order at 7:30 pm by the Chairman, Brian Walsh. Present were: Brian Walsh, Chairman; Katherine Connolly, Vice-Chairman; William "Bill" Baschnagel; Peter Christie; Judson "Jay" Pierson; Julia Griffin, Town Manager; and members of the public.

**1. PUBLIC COMMENT**

There was no public comment.

**2. PUBLIC HEARING TO CONSIDER OPTIONS FOR ISSUING PERMITS FOR CONSTRUCTION ON LOTS LOCATED ON PRIVATE ROADS**

Jonathan Edwards, Director of Planning & Zoning, explained that a recent amendment to RSA 674:41 now allowed the Board of Selectmen to authorize the issuance of building permits on privately owned roads that were not developed under Subdivision Regulations. Under the same law, the Selectmen were allowed to seek the advice of the Planning Board on how to administer this newly granted authority. Mr. Edwards stated that Hanover's Planning Board had held two public meetings to debate a draft version of a proposed policy. Revisions were made, based on public input gained at those hearings, and ultimately the Planning Board voted to forward the revised policy to the Selectboard for their review. Town Manager Griffin added that further minor revisions were then incorporated into the draft policy based on comments she received from individual Selectboard members.

Mr. Edwards explained that the policy currently before the Selectboard dealt only with Sands O' Time Road and not the three other known private roads in Hanover. He said that Sands O' Time Road was unique in that it was by far the largest private road in Hanover and was the only private road upon which lots on a private road, in an adjoining municipality, depended upon for access.

Mr. Edwards then walked the Selectboard through the recommended policy, which was as follows:

- A. The Selectboard determines that there are three relevant categories of construction and development activity that could take place on lots on Sands O' Time Road, a private road in Hanover, or on lots in an adjoining town that depend for access solely on this private road in Hanover:

1. Categorical Authorization of Permit Issuance: The Selectboard authorizes the Zoning Administrator and the Building Inspector to issue Zoning Permits and Building Permits,

respectively, for any such lot in like manner to the regular procedures and criteria used for issuance of such permits, provided:

- a. That the lot has been legally established prior to January 1, 2003;
- b. That the lot contains only one principal structure;
- c. That the proposed construction and development activity complies with all appropriate zoning requirements;
- d. That the lot is used only for single-family seasonal residence in Hanover or a single-family residence (seasonal or year-round) in any other municipality, that the residence contains not more than two bedrooms, and that the requested construction will not cause a building footprint, as defined in the Hanover Zoning Ordinance, exceeding 15 percent or a floor-area ratio, as defined in said Ordinance, exceeding 0.10;
- e. That any required septic permit be obtained prior to the submission of an application for a Zoning or Building Permit; and
- f. That the applicant shall produce evidence accompanying the application for a building permit, in accordance with State Law, that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought.

2. Conditional Authorization of Permit Issuance: If a proposal does not meet the provisions of A1 above, the Selectboard shall hold a public hearing to review the application with the object of evaluating whether the proposed construction and development activity is consistent with the objectives of this policy. Following this review, the Selectboard may authorize the Zoning Administrator and the Building Inspector to issue Zoning Permits and Building Permits, respectively, for any such lot in like manner to the regular procedures and criteria used for issuance of such permits, provided that the Selectboard finds:

- a. That the lot has been legally established prior to January 1, 2003;
- b. That the lot contains only one principal structure;
- c. That the proposed construction and development activity complies with all appropriate zoning requirements;
- d. That the lot is used only for single-family seasonal residence in Hanover or a single-family residence (seasonal or year-round) in any other municipality, that the residence contains not more than four bedrooms, or that the requested construction will not cause a building footprint, as defined in the Hanover Zoning Ordinance, exceeding 25 percent or a floor-area ratio, as defined in said Ordinance, exceeding 0.15, or any combination of the above;
- e. That any required septic permit be obtained prior to the submission of an application for Zoning or Building Permit;
- f. That the applicant shall have demonstrated that the proposal will not unduly burden the capacity of the private road or roads to carry any additional traffic, and will not adversely impact the quality of surface waters or groundwater; and
- g. That the applicant shall produce evidence accompanying the application for building permit, in accordance with State Law, that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought.

3. Refusal to Authorize Permit Issuance: If a proposal does not meet the provisions of A1 or A2 above, the Selectboard does not authorize the Zoning Administrator and the Building Inspector to issue Zoning Permits and Building Permits, respectively, for any lot fronting on or served by a private road in Hanover.

4. Future Subdivision of Properties Fronting On or Served by Sands O' Time Road: It is the policy of the Hanover Board of Selectmen that any application to subdivide properties fronting on or served by Sands O' Time Road, whether in Hanover or an adjacent municipality, be conditioned on the owner or developer providing separate access to any lots so created from an approved public town road consistent with the requirements of RSA 674:41.
- B. Under the stipulations of A1 and A2 above, the Selectboard finds that the erection of structures and the issuance of permits for such purposes will not:
    1. Increase the difficulty of carrying out the Hanover Master Plan;
    2. Cause hardship to future purchasers of such properties; and
    3. Cause undue financial impact on the Town of Hanover.
  - C. The Selectboard declares that the Town of Hanover neither assumes responsibility for maintenance of said private roads nor assumes liability for any damages resulting from the use thereof.
  - D. The Selectboard notifies the Town of Canaan of the above finding and that Hanover will therefore undertake or assume no further RSA 674:53 jurisdiction over the issuance of building permits for lots on Sands O' Time and Cove Roads in Canaan which satisfy the above A1 (Categorical Authorization) provisions but will retain such jurisdiction over the issuance of building permits for such lots in Canaan under the above A2 (Conditional Authorization) or A3 (Refusal to Authorize) provisions.
  - E. Other Private Roads: This policy is not to be construed to apply to any private roads other than those mentioned above. The Board of Selectmen reserves the right to apply these or any other standards the Board may deem appropriate within the meaning of RSA 674:41 and other relevant statutes to the issuance of building permits for construction or development activity on lots located on or dependent on any other private roads.

Selectman Baschnagel suggested changing number 2 (d) to read, "...that the residence contains not more than four bedrooms, ~~or~~ **and** that the requested construction will not cause a building footprint ..." Selectman Christie suggested striking "... or any combination of the above" at the end of the same sentence. The Board agreed to both amendments.

Selectman Baschnagel asked what criteria would be considered in determining if proposed construction would cause an undue burden to the road capacity or have an adverse impact on surface or ground water quality. Selectman Walsh said it would be up to the applicant to convince the Selectboard there would be no impact. He said he would prefer not to provide guidance in that area.

Selectman Walsh asked of the number of lots in this area that were undeveloped. Selectman Connolly said there were eleven vacant lots in Hanover, five of which were determined by the Town Assessor to be "undevelopable" due to their topography. Canaan had twenty-six vacant lots. There were also four larger lots in this area including a 51-acre tract and a 10-acre tract in Hanover, and a 68-acre tract and a 714-acre tract in Canaan. It was noted that if the proposed policy was adopted these larger lots could not be developed unless access was provided to them from a means other than Sands O' Time Road.

Selectman Christie asked if the State provided any other guidance for requirements, other than consulting with the Planning Board. Town Attorney Walter Mitchell said no and added that the amended law states that towns should treat private roads in the same way that they should have always been treating Class VI roads.

Selectman Pierson asked of the density impact and why future development should be limited to single-family use and/or seasonal use. Mr. Edwards explained that the lots in existence prior to January 1, 2003 were relatively small, averaging roughly 6,000 square feet in size. He said that the Hanover lots were located in the Forestry Zoning District, which only allowed seasonal residences. The Town of Canaan did not have zoning, so by definition, single-family residential, without regard to seasonal or year-round use, were legal.

Robert Cimis, owner of 45 and 48 Sands O' Time Road, said the problem before the Board arose because of one individual who has challenged the use of the road and future development. He expressed concern for the Assessor's determination that many of these lots were "undevelopable". Selectman Walsh explained that the Assessor's categorization of these properties was based on topography. They were not speaking to owners' rights. Mr. Walsh said it was not the Town's intention to destroy property rights or worsening the situation on Sands O' Time Road. Mr. Cimis asked what floor-area ratios were. Mr. Edwards explained that it was a ratio of building square footage to lot size.

John Montgomery, of 151 Wolfeboro Road, read from the Zoning Board of Adjustment's decision in Case No. 2000-15 which involved an application for a new home on Sands O' Time Road. It stated, "*The failure to assure such adequate street access does create hardship on future purchasers, who would justifiably be expecting a home to have access adequate for municipal services such as police, fire and rescue, and school buses. The assurance of adequate access is probably the #1 public purpose underlying the subdivision laws. Sands-O-Time Road does not even come close to being adequate for these purposes, under the Town's road standards as contained in the Planning Board's regulations. Such inadequacy would inevitably be converted to a financial hardship on the Town if permanent residences were constructed, because – in the words of the ZBA of New Durham as quoted by the NH Supreme Court in a very similar case involving a Class VI rather than a private road, Vachon v. Town of New Durham, 131 N.H. 623 at 625: "police, fire and rescue vehicles would have serious difficulties in reaching the properties, thus creating a substantially increased risk for the inhabitants of such proposed buildings, and an increased possibility of financial impact to the municipality in terms of increased liability or exposure to claims, injury to town employees and/or damage to Town equipment..."*" Mr. Montgomery said he understood this language to be stating that it was the opinion of the ZBA that Sands O' Time Road was not suitable for year-round purposes. Mr. Montgomery argued that the proposed opening of Sands O' Time Road for year-round homes would create a huge liability to the Town of Hanover. He urged the Selectboard to disapprove opening Sands O' Time Road until a sustainable option for adequate street access emerges.

Selectman Walsh took a moment to thank Mr. Montgomery for the information he supplied to the Selectboard previously on this issue. He then suggested strengthening the wording in Section C to require the recording of the Notice of the Limits of Municipal Responsibility and Liability with the county registry of deeds for all of the properties involved to address the issue of the Town's liability. Pauline Saunders, of Sands O' Time Road, explained that when a building permit is sought in Canaan, an applicant must sign off on all of those responsibilities, acknowledging that the towns are not responsible but that the individuals are. Richard Saunders, of Sands O' Time Road, said he had to have his deed altered acknowledging the lack of municipal services provided to his property. Selectman Connolly spoke in favor of using whatever legal methods available to circumscribe the permits that are issued. Selectman Baschnagel asked how this statement could be appropriately added to deeds. Attorney Mitchell said he was not aware of any legislation that would give the Town the authority to require these landowners to modify their deeds. He said that the Town could require the recording of the Notice of Municipal Responsibility and Liability at the county registry prior to issuance of permits. Mr. Walsh suggested more research was needed.

Wallace Ragan, of 88 Sands O' Time Road, asked if it was possible for Mr. Montgomery to compromise and widen the road in his section of property. Selectman Walsh suggested that issue should be addressed between the individual citizens and not by the Selectboard. He said that was one of the difficulties of private roads.

Dave Vincelette asked of the viability of Hanover restricting residences to seasonal use only in this area. Selectman Baschnagel explained that Hanover's Zoning Ordinance had listed that restriction for some time. The intent was to minimize the full-time residency population in that area. Selectman Walsh said it was also the Town's desire to make as minimal an impact on Canaan's land use as possible, recognizing what is there now.

Richard Bauer asked what would be done to track development in Canaan and its impact to Sands O' Time Road. Selectman Walsh said that was another difficulty with this private road matter. He reiterated that the Selectboard's intent was not to take away property rights in Hanover or in Canaan. Joan Garipay, explained that efforts were made to contact people involved in construction projects that have damaged the road to repair the damages. She did not think there was a big on-rush of people waiting to build in this area.

Selectman Walsh asked that the approved revisions to Section 2 (d) and C be completed for the Board's further review on Monday, November 17, 2003. He then closed the public hearing.

**3. DISCUSSION REGARDING OBJECTIVE TO EXPLORE TOWN MEETING FORMAT**

Selectman Walsh walked the Board through his October 22, 2003 Memo that was developed in concert with Town Moderator Marilyn "Willy" Black. It listed the Selectmen's objective relative to Town Meeting, which reads as follows:

*"Town Meeting is the legislative body for Hanover. Currently some decisions are made by paper ballot during all day voting and others are made in the evening in open meeting. Town Meeting is also a very important civic institution expressing Hanover's commitment to democracy at a most basic level. There have been numerous suggestions for improving Town Meeting. For the coming year, the objective is for the Selectmen to initiate a public process to rearticulate the fundamental goals of Town Meeting and to begin considering alternative ways to meet those goals."*

The Memo also outlined the following work plan:

- Establish a task force named the Hanover Town Meeting Task Force.
- The Task Force would be co-chaired by Town Moderator Black and Selectman Walsh.
- The Task Force would have twelve members, broadly representative of the Town.
- Select members by the Selectboard talking it up around Town and placing ads in the Valley News to solicit volunteers.
- Have the Task Force appointed by vote of the Selectboard and have the first Task Force meeting in early December.
- Have Town Manager Julia Griffin be an ex officio member of the Task Force.
- Have Town Clerk Sallie Johnson act as staff to the Task Force with respect to research that would be required to determine viability of recommendations related to changing the format of Town Meeting.
- Plan on an eighteen-month process:
  - The time between now and the May 2004 Town Meeting devoting to "fact finding", development of draft statements of values, and examination of options, and
  - Depending on town reaction, pursuit of potential changes with an eye toward concrete proposals for May 2005 Town Meeting action.

Mr. Walsh read the Task Force charge, which was proposed as follows:

*"The Hanover Town Meeting Task Force is charged with developing a report to the Hanover May 2004 Town Meeting covering the following topics relative to the processes of town government (at the most fundamental level):*

- *What do the citizens of Hanover want from their government,*
- *How does our government work currently,*
- *What are the options available for improving our government under current State law, and*
- *What are the plusses and minuses of various options?*

*It is expected that the Task Force would make a presentation to the May 2004 Town Meeting and that discussion (hopefully spirited) would occur. After the input from the May 2004 Town Meeting the Selectmen would determine what next steps to pursue for the 2005 Town Meeting."*

Mr. Walsh acknowledged the tremendous amount of work the League of Women Voters have done relative to how the town works and hoped the League would be interested in joining this venture as well. Selectmen Baschnagel, Pierson and Connolly spoke in support of the Memo. Mr. Christie suggested changing the third bullet of the charge to read, "What are the options available for **improving changing** our government under current State law, ...". Mr. Walsh agreed.

Selectman Christie asked if the Task Force would hold public hearings to seek additional public comment. Selectman Walsh said yes. Selectman Pierson suggested that Town Meeting might not be the best place to achieve optimal dialogue. Mr. Walsh agreed to adding a fifth bullet to the Task Force Charge that will read, "***To gather information by surveys or public hearings or however as to the thoughts and feelings of the citizenry of Hanover.***" Mr. Christie further suggested reorganizing the bullets by listing the first bullet last.

Selectman Pierson asked how the Task Force members would be chosen. Selectman Walsh said the Town would run a transaction ad in the Valley News. He also hoped the Selectboard could suggest individuals and encourage them to apply. Tom Hall, of Etna, said in formulating the Task Force, consideration should be given to those who do not attend the evening Business Meeting portion of Town Meeting. He asked that an objective be added to conduct a straw vote during the daytime voting for Town Meeting 2004 to elicit broad guidelines or alternatives the Task Force could then investigate. Mr. Walsh suggested the following insert to the Task Force charge, "It is expected that the Task Force would make a presentation to the May 2004 Town Meeting and that discussion (hopefully spirited) would occur. ***The Task Force should also consider how to get input from those that attend Town Meeting only during the day paper ballot-voting period.*** After the input from the May 2004 Town Meeting the Selectmen would determine what next steps to pursue for the 2005 Town Meeting." Kari Asmus, of Etna, said the number of people that voted during the day was also a very small percentage of the registered voters in Hanover. She encouraged the Task Force to conduct a survey of Hanover residents as a whole. Mr. Hall further encouraged the Selectboard to find Task Force members who were not the usual group of volunteers who typically were chosen for exploratory committees. Selectman Walsh said that he and the Town Moderator shared that concern as well.

#### 4. APPROVAL OF MINUTES: OCTOBER 20, 2003

**It was MOVED by Selectman Pierson and SECONDED by Selectman Baschnagel to approve the minutes of October 20, 2003 as improved. THE SELECTMEN**

**VOTED FOUR IN FAVOR, ONE OBSTAINING (CONNOLLY) TO APPROVE THE MINUTES OF OCTOBER 20, 2003 AS IMPROVED.**

**5. ADMINISTRATIVE REPORTS**

Ms. Griffin reported that the tax rate setting should be finalized the following day. Tax bills would be mailed on Friday. Staff had received a letter from the County for the county portion of the taxes due which listed a 13.42% increase. Hanover's bill to the County, totaling \$2,146,311.00, is due December 17, 2003.

Ms. Griffin said staff would soon begin preparing for the budget season.

**6. SELECTMEN'S REPORTS**

**Peter Christie**

Mr. Christie reported on the success of the Recycling Summit. The Recycling Committee would be meeting the following morning for follow up discussions. Mr. Walsh provided a brochure he received from Hanover's Sister City, Joigny, France, relative to their approach to recycling.

**Katherine Connolly**

Ms. Connolly reported on the Planning Board's site visit to the Water Company lands and their initial review of Dartmouth's South Block plans. The Planning Board's next meeting would involve a discussion of the Town's Discretionary Preservation Easement process.

**Bill Baschnagel**

Mr. Baschnagel also reported on the Planning Board's site visit to the Water Company lands. He advised of the Parking & Transportation Board's (PTB) discussion of Dartmouth's plans for construction activities over the next year and a half and their parking impacts. The PTB will meet with the Selectboard in the near future to discuss parking alternatives to the Thompson Lot, which will no longer be available to the Town, Consumer Coop, or high school after April 2004.

**Jay Pierson**

Mr. Pierson did not have anything further to report.

**Brian Walsh**

Mr. Walsh reported on the Community Substance Abuse Advisory Committee's (CSAAC) review of Dartmouth's bonfire. He said contrary to reports in the Valley News



it was a very safe bonfire. The Committee also reviewed the Diversion Program, which was getting backed up due to increased participation. Mr. Walsh said he encouraged the Committee, with the Selectboard's backing, to consider hiring an additional counselor and subsequently increasing the program fee to cover that cost.

**7. OLD BUSINESS**

Selectman Baschnagel asked of the status of the transfer of the Gile Tract for affordable housing. Selectman Christie said it was progressing. Town Manager Griffin said it was important for Twin Pines to have ample time to work out the details of the transfer.

Selectman Pierson asked of the status of the former Community Center building. Town Manager Griffin explained that the Town was informally discussing an option with St. Thomas Episcopal Church to swap that property with the rear yards of the Church's property at 14 School Street. If agreed upon, the former Community Center lot would be developed, as affordable housing, by the Church and the back yard areas would be considered for future municipal parking.

**8. ADJOURNMENT**

**It was MOVED by Selectman Pierson and SECONDED by Selectman Baschnagel to adjourn the meeting. THE SELECTMEN VOTED UNANIMOUSLY TO ADJOURN THE MEETING AT APPROXIMATELY 9:00 PM.**

**SUMMARY**

- 1. It was MOVED by Selectman Pierson and SECONDED by Selectman Baschnagel to approve the minutes of October 20, 2003 as improved. THE SELECTMEN VOTED FOUR IN FAVOR, ONE OBSTAINING (CONNOLLY) TO APPROVE THE MINUTES OF OCTOBER 20, 2003 AS IMPROVED.**
- 2. It was MOVED by Selectman Pierson and SECONDED by Selectman Baschnagel to adjourn the meeting. THE SELECTMEN VOTED UNANIMOUSLY TO ADJOURN THE MEETING AT APPROXIMATELY 9:00 PM.**

Respectfully submitted,



Peter Christie, Secretary

These minutes were transcribed by Beth Rivard.