

APPROVED

BOARD OF SELECTMEN'S MEETING

OCTOBER 21, 1996

7:30 P.M. - MUNICIPAL OFFICE BUILDING - HANOVER, NH

The meeting of the Board of Selectmen was called to order at 7:30 p.m. by the Chairman, Marilyn W. Black. Present were: Marilyn W. Black, Chairman; Katherine S. Connolly; Dorothy King; Brian Walsh; Julia Griffin, Town Manager; and members of the public.

Ms. Black announced that this meeting was being taped by CATV 6 and that assistive listening devices were available for anyone who wished to use them.

1. PUBLIC COMMENT

Walker Weed, a resident of Three-Mile Road in Etna, submitted the following statement to the Board. He noted that he had limited his remarks to the Corey Road, but felt that they also pertain to the other 20 Class VI highways as well:

"Corey Road was discontinued and made subject to gates and bars by vote of the Town Meeting of March 9, 1948. This was done in accordance with New Hampshire Statute 229-5. If the Town wishes to maintain this road in any way, it must first reclassify it by vote of the Town as a Class V or IV highway, which is stated in detail in Statute 231-22(a).

It is my contention that the Conservation Commission is a division of Hanover town government. Although it is a volunteer group, it is appointed by the selectmen and serves at their pleasure, as does the highway department. It is funded with Town money and it does not seem that it can be granted a permit to maintain in any way a Class VI highway. While it is possible for a private landowner to obtain a permit to access his property via a Class VI highway, the Conservation Commission has no such excuse.

The abutters of the Corey Road are M.K. Beach, myself and the U.S. Government which owns the Appalachian Trail. It seems to be acknowledged that the Conservation Commission acted illegally in cutting back the trees and brush on a good part of the Corey Road right of way without even applying for a permit. In addition to that, the clearing of the traveled way was done to a width in places of 24 to 30 feet, rather than the 12 foot width which a private permit would have allowed. Also, New Hampshire Statute 231-150 was violated which states that no tree which has a circumference of 15 inches or more at a point four feet from the ground shall be removed in the absence of the notice to the abutter, except when a delay entailed by such notice would pose an imminent threat to safety or property. Trees which have a circumference of 15 inches would have a diameter of less than 5 inches, and I would say that a majority of trees which were cut exceeded that diameter.

1. **PUBLIC COMMENT** (Continued)

New Hampshire Statutes 231-152 and 153 make it clear that trees and brush cut from within the limits of a public highway shall be disposed of within 30 days, or that the cost of removal can be assessed against the party authorizing or causing such nuisance. The trees and brush in question on the Corey Road were cut on July 17th and 18th of this year. The stacks and logs were piled on the right of way and, in many cases, on the land of the abutters. The Appalachian Trail was blocked as were some of my own trails. We cleared out the trails, but most of this material is still there three months later.

In my opinion, the Corey Road cutting operation was a disaster impairing the natural beauty of the road unnecessarily. The road was already easily passable for hikers, skiers, horses, bicyclers and, except for a few windfall trees, four-wheel drive trucks. It should have been left as it was. Now that the damage has been done, the problem is to clean up the trees and brush with a minimal additional impact. Since four-wheel vehicles cause the most damage and would have to make many trips to haul out the brush, it seems it probably would be best to take a chipper in and scatter the chips along the right of way to rot. The logs should be cut up and left for the abutters to whom they belong.

Respectfully submitted,

Walker Weed."

2. **DISCUSSION RE: PROPOSED CHANGES TO ORDINANCES REGARDING PRIVATE CONSTRUCTION ON CLASS VI HIGHWAYS AND REGULATION OF PUBLIC LAND TO REQUIRE ABUTTER NOTIFICATION PRIOR TO CONSTRUCTION OR MAINTENANCE CONDUCTED BY TOWN OR PRIVATE PARTY**

Ms. Black stated that voting on this agenda item would be postponed until the next meeting of the Board of Selectmen, as notice of this public hearing was not made in time. She noted that suggestions for changing Ordinance #20 and Ordinance #4 dealing with Class VI highways state that "Notice shall be sent to abutters, as defined by RSA 672:3 and to the Conservation Commission. The notice shall be in writing, and shall contain a brief description of the proposed work, the VI highway involved and where a copy of the application can be inspected." The following language is proposed to be added to Ordinance #4, Paragraph #4: "If there is any objection to the application from any abutter and/or the Conservation Commission within 10 days of the date of the notice, the Manager shall place the application matter on the agenda of the Selectmen. Notice of the Selectmen's meeting shall be mailed at least 7 days prior to the meeting, to the applicant, the abutter and the Conservation Commission. The Selectmen will provide an opportunity for input as to the application. The Selectmen may advise the Public Works Director as to the issuance of permit. No work shall be performed until the permit has been signed by the Public Works Director."

2. DISCUSSION RE: PROPOSED CHANGES TO ORDINANCES REGARDING PRIVATE CONSTRUCTION ON CLASS VI HIGHWAYS AND REGULATION OF PUBLIC LAND TO REQUIRE ABUTTER NOTIFICATION PRIOR TO CONSTRUCTION OR MAINTENANCE CONDUCTED BY TOWN OR PRIVATE PARTY (Continued)

Ms. Black noted that the Conservation Commission has to go through the same process to do any work on a Class VI highway.

David Nutt, a resident of 285 Dogford Road in Etna, read the following memo which he had previously submitted to the Town Manager regarding Class VI highways:

"The word "maintain" as it is used in the RSA's governing roads and how it is interpreted is a primary consideration in the present situation. To paraphrase the relevant sections:

RSA 231 45a I. A road to Class VI by vote of Town

II. A road to Class VI by failure to MAINTAIN for a period of 5 years.

22a A Class VI road may be reclassified by vote of Town (Presumably to Class V which then must be "maintained" for public use).

Thus Class VI appear to be considered as "NON-MAINTAINED" Town Roads, where the Town R.O.W. continues, and they are available for public use without any Town maintenance.

The question: What is Maintenance? What effect does Town maintenance have. The answer is not clear.

- 1) Does the clearing of brush and trees across the Road constitute maintenance?
- 2) Does grading and erosion control constitute maintenance (stabilization)?
- 3) Does the repair of a bridge constitute maintenance?

I can cite one experience when I was serving as a Selectman in 1970 \pm . The then Town Clerk, Marion Guyer, asked the Town to repair a bridge on a Class VI road so she could safely ride her horse over it. The legal opinion obtained at that time was that this would constitute "Maintenance" which should not be done on a "Non-maintained" Class VI road.

Perhaps this aspect should be carefully examined before embarking further on the proposed Class VI road stabilization program. On the face of it the stabilization program would appear a worthy enterprise, unless there is some hidden legal pitfall.

2. DISCUSSION RE: PROPOSED CHANGES TO ORDINANCES REGARDING PRIVATE CONSTRUCTION ON CLASS VI HIGHWAYS AND REGULATION OF PUBLIC LAND TO REQUIRE ABUTTER NOTIFICATION PRIOR TO CONSTRUCTION OR MAINTENANCE CONDUCTED BY TOWN OR PRIVATE PARTY (Continued)

If stabilization is accomplished I suspect we will see a surge of vehicle use for hunting, recreation & joy riding, which may not be an intended result.

David C. Nutt"

Ms. Connolly stated that the logs were left on the abutters land by law, which states that the product that is cut cannot be removed as it belongs to the lot and the landowner. Ms. Black noted further that as all work was stopped, there has not been a chance for anyone to clean the brush, etc.

Helen LaCoss questioned who has liability for vehicles getting stuck on Class VI highways. The Board answered that the individual using the Class VI highway is liable.

Ms. Black noted that the work done on Corey Road over the summer was done without the knowledge of the Board of Selectmen, and the Board is apologetic regarding that situation. Ms. Weed indicted that she did not believe there had been an apology issued. Ms. Connolly stated that with regard to Corey Road, the Board unintentionally did something which was out of order. As for the travelled way, Ms. Connolly stated that she believed the ordinance is very clear about a 12 foot width, which would preclude all but the most adventurous of vehicles.

Helen LaCoss indicated she felt the following changes should be made to the proposed ordinance: Ordinance #4, Paragraph #4 - She suggested the sentence reading "No work shall be performed until the permit has been signed by the Public Works Director" be revised to read "No work shall be performed until the permit has been **issued and** signed by the Public Works Director." Ms. Black agreed with that revision. Ordinance #4, item 2 - Refers to the incorrect ordinance (Public Land Ordinance). Mrs. LaCoss noted that the reference should be to the Private Construction and Class VI Highways Ordinance.

Mr. Walsh suggested the following letter sent to the Town Manager from Bob Bailey be read into the minutes:

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2. DISCUSSION RE: PROPOSED CHANGES TO ORDINANCES REGARDING PRIVATE CONSTRUCTION ON CLASS VI HIGHWAYS AND REGULATION OF PUBLIC LAND TO REQUIRE ABUTTER NOTIFICATION PRIOR TO CONSTRUCTION OR MAINTENANCE CONDUCTED BY TOWN OR PRIVATE PARTY (Continued)

"October 21, 1996

Julia Griffin, Town Manager

Sent Via Fax

Re: Class Six Road Work

Dear Julia:

Please note that I regret that I will not be able to attend the Selectperson's meeting. I do not think other members are going to be able to attend either.

First of all I want to say that I have never received as much positive support from people in our community about any volunteer project I have worked on. The many calls and comments in support have been wonderful.

I very strongly feel that an abutter notification process that requires a formal noticed hearing at the request of any abutter to a Class Six highway prior to any work being done on that highway is out of line. Notification of abutters or public via newspaper for example may be more appropriate for this type of work.

We should note that the last master plan for the Town suggested that we have a noticed public hearing to change the classification of a road.

I can't ignore the fact that the uproar about this work is by a small group of abutters to these roads. Many of these people have spent over 20 years trying to keep these town resources a secret. Removing town signs, putting up illegal fences. Falling trees across the roads to discourage access. We have ignored this for years. This is wrong. What is most offensive to me is that they are brazen enough to cry foul when we publicly declare the rights of the public.

Please feel free to contact me if you have any questions, or if I can be of any help in any way.

Submitted by: Bob Bailey"

2. **DISCUSSION RE: PROPOSED CHANGES TO ORDINANCES REGARDING PRIVATE CONSTRUCTION ON CLASS VI HIGHWAYS AND REGULATION OF PUBLIC LAND TO REQUIRE ABUTTER NOTIFICATION PRIOR TO CONSTRUCTION OR MAINTENANCE CONDUCTED BY TOWN OR PRIVATE PARTY (Continued)**

Helen LaCoss indicated she felt the following changes should be made to the proposed ordinance: Ordinance #20, Paragraph #6: The sentence reading "The Town shall be required to file an application for a special permit for any of the activities listed below unless specifically exempted by the terms of this Ordinance" be revised to read "The Town shall be required to file an application **with the Town Manager** for a special permit for any of the activities listed below unless specifically exempted by the terms of this Ordinance."

Regarding Ordinance #20, Paragraph #6 - Ms. Lacoss suggested that the sentence reading "Maintenance work, including forestry, trail or road work, and any other work designed to improve or enhance the appearance or use of the public land" be revised to read "Maintenance work, forestry, trail or road work or any other work designed to improve the use of the public land."

Mrs. LaCoss also suggested that the following revisions to Ordinance #20, Paragraph #7:

1. The sentence reading "If there is an objection to the application from any abutter and/or the Conservation Commission within 10 days from the date of the notice, the Manager shall place the application matter on the agenda of the Selectmen" be revised to read "If there is an objection to the application from any abutter and/or the Conservation Commission within 10 days from the date of the notice, **the objection shall be made to the Town Manager and** the Manager shall place the application matter on the agenda of the Selectmen."
2. The sentence reading "Notice of the Selectmen's meeting shall be mailed at least 7 days prior to the meeting to the applicant, the abutter and the Conservation Commission" be revised to read "Notice of the Selectmen's meeting shall be mailed at least 7 days prior to the meeting to the applicant, the **abutters** and the Conservation Commission."
3. The sentence reading "No work shall be performed until the special permit has been signed by the Chair of the Hanover Conservation Commission and the Hanover Town Manager with notification to the Hanover Chief of Police" be revised to read "No work shall be performed until the special permit has been **issued by the Manager and** signed by the Chair of the Hanover Conservation Commission and the Hanover Town Manager with notification to the Hanover Chief of Police."

The Board of Selectmen agreed with the revisions as suggested by Mrs. LaCoss.

3. DISCUSSION RE: REVISED PROPOSED 1997 - 1998 BUDGET REVIEW SCHEDULE

Ms. Griffin stated that she wanted to be sure the Board had no problems with the dates scheduled for budget review. There was no further discussion on this agenda item.

4. TO CONSIDER AND TAKE ACTION RE: REQUEST TO HANG BANNER ACROSS MAIN STREET AND GENERAL DISCUSSION RE: BANNERS

Ms. Black stated she had received a request from the Skating Club of Dartmouth to hang a banner across Main Street. She indicated that requests for banners are increasing, and that a banner policy, rather than acting on each banner request individually, might be in order.

Mr. Walsh asked for a list of banners that were approved over the last year. Ms. Black responded that banners were displayed over Main Street advertising Dickens of a Christmas, the Fourth of July Celebration, Cliff Vermilya, Playspace, and one advertising voting was planned to be displayed.

Mr. Walsh commented that he did not find banners offensive if they were tastefully done, but felt an ordinance might serve to make matters clearer.

Ms. Connolly stated that there was work being done on an amendment to the zoning ordinance for the I zone to allow the Hopkins Center, the Hood Museum and the Sports Center to be able to advertise their activities in a more visible fashion. She commented that she was not in favor of a weekly changing banner hanging across Main Street.

Ms. Griffin noted that some communities that have a regular banner location charge a fee, and also require that the organization requesting the banner have their banners produced by one banner company which is retained by the town under contract. This ensures that the banners used are consistent in quality, and are easily put up and taken down.

Mr. Walsh commented that he believes the banner issue warrants further discussion at a time when Mr. Nelson would be present.

Ms. Connolly stated that because the Board has historically only approved banners for Town of Hanover activities, the request from the Dartmouth Skating Club be denied.

Ms. Connolly MADE THE MOTION that the Board deny the request from the Skating Club of Dartmouth to hang a banner across Main Street. Ms. King SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO DENY THE REQUEST FROM THE SKATING CLUB OF DARTMOUTH TO HANG A BANNER ACROSS MAIN STREET.

4. TO CONSIDER AND TAKE ACTION RE: REQUEST TO HANG BANNER ACROSS MAIN STREET AND GENERAL DISCUSSION RE: BANNERS (Continued)

Ms. Black stated that the issue will be put on a future agenda when Mr. Nelson can be present, and she would also like Clint Bean to present input from the Chamber of Commerce on this matter. Mr. Walsh indicated that he felt the issue warrants noticing for public discussion.

5. ADMINISTRATIVE REPORT

Ms. Griffin updated the Board on composting, noting that work is being done on substantial revisions to the agreement. She stated that she had met recently with the College and DSM, and is feeling more comfortable with the draft agreement. Ms. Griffin indicated that on October 23rd she would be visiting a composting facility in Bennington operated by Wheelabrator to get a sense of how that facility is functioning and the marketability of the compost. She plans to present a full report to the Board on December 2nd, at which meeting Casella Waste Management, DSM and the College will all be present. Ms. Griffin stated she wishes the Board to have a full understanding of the project and receive input from the Board before she signs the agreement. She noted she will be sending out a draft copy of the agreement for the Board, as well as a memo outlining the changes most recently made and why she advocated they be made.

Mr. Walsh stated that as part of that presentation, he would like each of the parties to state to the Town their understanding of what happens if this project turns out to be economically unfeasible.

Ms. Connolly expressed concern regarding how the project differs from the original project presented to the Board, inclusive of the fact that there appears to be two processes proposed, rather than the single process which was adopted when the Board first voted on the issue.

6. SELECTMEN'S REPORTS

Mr. Walsh

Mr. Walsh reported that he was continuing to meet with the various Town departments, and had recently visited the waste water treatment plant. He also stated he had attended a Conservation Commission meeting recently; he noted that there was much conversation regarding the proposed ordinances governing Class VI highways, and that the Conservation Commission had requested that the Board be very clear about their intentions on the Dana West property. Additionally, Mr. Walsh stated that he would be attending an information session in the Mayer Room of the Howe Library at 7:30 p.m. on October 22nd to discuss the Library's long-range plan. Ms. Black noted that this meeting would be televised on CATV-6.

6. SELECTMEN'S REPORTS (Continued)

Ms. King

Ms. King reported that she had met recently with the Parks and Recreation Department, with much discussion dealing with Playspace. She noted that she had also spent time at the Upper Valley Lake Sunapee Council reviewing drafts, and that further discussion will be held on October 23rd.

Ms. Connolly

Ms. Connolly had nothing to report.

Ms. Black

Regarding upcoming voting on November 5th, Ms. Black reminded the Board that each party is allowed to have one observer in the voting room. These officials are required to have proper identification, and are the only ones allowed to view the voter checklist.

The following assignments for election day were made:

| | |
|---------------|------------------------|
| Mr. Walsh: | 7:00 a.m. - 9:00 a.m. |
| Ms. King: | 9:00 a.m. - 11:30 a.m. |
| Mr. Nelson: | 11:30 a.m. - 2:00 p.m. |
| Ms. Black: | 2:00 p.m. - 4:30 p.m. |
| Ms. Connolly: | 4:30 p.m. - 7:00 p.m. |

Ms. Black noted that there will be a banner across Main Street indicating that voting is to be held at the Richmond School and will commence at 7:00 a.m.

7. APPROVAL OF THE FOLLOWING MINUTES: AUGUST 5, 1996; OCTOBER 7, 1996

After a brief discussion, Ms. Black **MADE THE MOTION** that the Board approve the minutes of the Board of Selectmen's meeting of August 5, 1996, as amended. Ms. King **SECONDED THE MOTION** and the Board of Selectmen **VOTED TO APPROVE THE MINUTES OF THE BOARD OF SELECTMEN'S MEETING OF AUGUST 5, 1996, AS AMENDED.** (Mr. Walsh abstaining)

After a brief discussion, Ms. Connolly **MADE THE MOTION** that the Board approve the minutes of the Board of Selectmen's meeting of October 7, 1996, as amended. Ms. King **SECONDED THE MOTION** and the Board of Selectmen **VOTED UNANIMOUSLY TO APPROVE THE MINUTES OF THE BOARD OF SELECTMEN'S MEETING OF OCTOBER 7, 1996, AS AMENDED.**

8. OTHER BUSINESS

Regarding the skateboard park, Mr. Stimson reported that construction is underway on skateboarding structures, which are expected to be completed within a couple of weeks. He also indicated that fundraising is underway and going well.

9. ADJOURNMENT

Ms. King MADE THE MOTION to adjourn the meeting of the Board of Selectmen. Ms. Connolly SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO ADJOURN THE MEETING OF THE BOARD OF SELECTMEN.

Ms. Black MADE THE MOTION to go to non-public session to discuss a matter which may affect the reputation of an individual. Mr. Walsh SECONDED THE MOTION and the BOARD OF SELECTMEN VOTED UNANIMOUSLY TO GO TO NON-PUBLIC SESSION TO DISCUSS A MATTER WHICH MAY AFFECT THE REPUTATION OF AN INDIVIDUAL.

The meeting was adjourned at 8:35 p.m.

SUMMARY

- 1. Ms. Connolly MADE THE MOTION that the Board deny the request from the Skating Club of Dartmouth to hang a banner across Main Street. Ms. King SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO DENY THE REQUEST FROM THE SKATING CLUB OF DARTMOUTH TO HANG A BANNER ACROSS MAIN STREET.**
- 2. After a brief discussion, Ms. Black MADE THE MOTION that the Board approve the minutes of the Board of Selectmen's meeting of August 5, 1996, as amended. Ms. King SECONDED THE MOTION and the Board of Selectmen VOTED TO APPROVE THE MINUTES OF THE BOARD OF SELECTMEN'S MEETING OF AUGUST 5, 1996, AS AMENDED. (Mr. Walsh abstaining)**
- 3. After a brief discussion, Ms. Connolly MADE THE MOTION that the Board approve the minutes of the Board of Selectmen's meeting of October 7, 1996, as amended. Ms. King SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO APPROVE THE MINUTES OF THE BOARD OF SELECTMEN'S MEETING OF OCTOBER 7, 1996, AS AMENDED.**
- 5. Ms. King MADE THE MOTION to adjourn the meeting of the Board of Selectmen. Ms. Connolly SECONDED THE MOTION and the Board of Selectmen VOTED UNANIMOUSLY TO ADJOURN THE MEETING OF THE BOARD OF SELECTMEN.**

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SUMMARY (Continued)

- 6. Ms. Black MADE THE MOTION to go to non-public session to discuss a matter which may affect the reputation of an individual. Mr. Walsh SECONDED THE MOTION and the BOARD OF SELECTMEN VOTED UNANIMOUSLY TO GO TO NON-PUBLIC SESSION TO DISCUSS A MATTER WHICH MAY AFFECT THE REPUTATION OF AN INDIVIDUAL.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B Walsh", with a stylized flourish at the end.

Brian Walsh, Secretary

These minutes were taken and transcribed by Nancy A. Richards.