

MINUTES OF THE SELECT BOARD
Meeting

September 30, 2013

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Board members present: Chairman LaCourse, Selectwoman Dennis and Selectman Cedarholm.

Others present: Roger Rice, Naida Kaen, Frank and Judy Eitler, Jane & Kevin Crawford, Tom Seubert, Karl Jakobs, David Przybylski, Nathaniel Meyer, John Roberts, Tricia & Alan Finch, Leslie Martin, Ryan & Barbara Mountain, Fire Chief Hoyt, Deputy Fire Chief Lombardo, Police Chief Murch, Town Administrator Julie Glover and Town Secretary Denise Duval.

1. Chairman LaCourse calls the meeting to order at 6:00 pm; opens the floor for public comment.
2. Tom Seubert of 10 Sheppard Lane comments on 101 Stepping Stones Road aka Veteran Resort-Chapel. He wanted to discuss the fact that there is now a Homeless Veterans Chapel sign on the building that is being built and that he spoke to Audrey Blodgett at the Attorney General's office regarding Peter MacDonald's 501c3 designation. Mr. Seubert believes that if he transferred property to an illegal non-profit organization then that should affect the status of his building permits etc. Chairman LaCourse indicates that 101 Stepping Stones will be addressed all at once following public comment.

No further public comment.

Chairman LaCourse then reads announcement regarding Noble Farm. "The Lee Board of Selectmen is pleased to announce that it has entered into a Purchase & Sales Agreement with James P. Daley, Jr. for the 91 acre parcel of land off North River Road known as Noble Farm. The Town acquired this property by tax deed in 2003 and it was re-zoned from residential to light-commercial use in 2012. The sale includes the area contained within the Conservation Easement. The Board has been advised by Mr. Daley that he intends to construct one or more warehouses on the property. The purchase price is \$200,000."

3. Town Administrator Julie Glover reads the answers to the questions from Mrs. Eitler regarding the Veteran's Resort Chapel presented to the Board on 9/16/13:
 1. How many days has Mr. MacDonald been in violation of town laws/ordinance with regard to his occupancy of and unpermitted construction activities, campfires, etc. on his Stepping Stone building lot? What is the daily fine amount for such non-compliance?
 - a. We believe that someone was living on the property from August 29 – Sept. 16. and that the shed was "constructed" beginning Sept. 7-8.
 - b. The Town had our attorney prepare a petition for a temporary and permanent injunction to Superior Court enjoining Mr. McDonald from violating the Town's Zoning Ordinance and Building Regulations Ordinance. Had this gone forward, and if the Town was granted the injunction, Mr. MacDonald could have been fined \$275.00 for the first day

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of violation and \$550.00 for each day thereafter. The imposition of fines is a discretionary decision of the Court.

(NH RSA 676:17 I)

2. Does the Town plan to collect these fines?

- a. Since Mr. Macdonald removed the violations, the petition was not filed, so the penalties available under RSA 676:17 I. do not apply.

3. If Mr. MacDonald refuses to pay said fines, what recourse does the Town have? Can he be arrested? Can the Town put a lien on his Packers Falls Road property? N/A

4. In light of the inordinate amount of time and money the Town has now spent dealing with Mr. MacDonald's defiance of the various laws, buildings codes and regulations, what is the estimated dollar amount we have spent on this problem at this point?

- a. The Town has expended a great number of staff hours on issues related to violations of the Zoning Ordinance and/or building regulations. Town staff has also expended a great number of hours reviewing Mr. MacDonald's building permit applications and assisting the ZBA in their review of the appeal of administrative decisions and variance requests. Not known how many staff hours have been spent on this issue and it would be difficult, if not impossible, to calculate. Suffice it to say, numerous hours.
- b. The Town has incurred approximately \$11,300 in legal bills since January 2013 for all issues related to Mr. Peter MacDonald and the Veteran's Resort Chapel. However, some of this relates to work connected to enforcement issues and some relates to work for the land use boards.

5. What has it cost the Town and taxpayers thus far in legal fees alone in dealing with Mr. MacDonald's defiance of Town rules and regulation? See answer to 4

6. Has Mr. MacDonald filed any legal action against the Town and if so, what?

- a. Yes, two lawsuits have been filed appealing the decisions of the ZBA. One of the lawsuits was transferred to federal court by counsel on behalf of the Town and one of the lawsuits is currently before the Strafford County Superior Court.

7. What recourse does the Town, including its citizens, have in recouping legal fees in defending against his frivolous law suits?

- a. The attorney for the Town's insurance carrier is handling the case in federal court and has requested, as part of the response to the lawsuit, that the Court award "reasonable attorney fees and costs."

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- b. The response to the Strafford County Superior Court lawsuit is not yet due; however the Town's attorney will make a recommendation to the Town on the viability of requesting attorney's fees in the second action. Any recourse by individual citizens would likely be based on a private cause of action and would not involve the Town. Citizens are encouraged to seek advice from their own attorney about whether a private cause of action exists and the best means of pursuing any remedy.

8. If Mr. MacDonald does bring legal action against the Town and loses, can the Town file a counter suit against him to collect damages for legal fees? Can the Town put a lien on his property to collect damages?

- a. See No. 7.
- b. Mr. McDonald has brought two law suits against the ZBA. If the Court awards the Town attorney's fees, and if Mr. MacDonald fails to pay them as ordered, the Town may elect to pursue a Writ of Execution to recover. Pursuant to that process, the Town may seek an Attachment on Mr. MacDonald's property.

Chairman LaCourse asks for any further comment on 10 Stepping Stones Road. Judy Eitler asks what exactly are the 2 lawsuits that Mr. MacDonald has filed against the Town? Ms. Glover explains that they are lengthy and that copies are available for viewing at Town Hall, but essentially they both deal with the perceived difficulties that Mr. MacDonald believes he has had in getting his permits. One is in Federal Court dealing with Federal issues and asking for monetary damages. The other is in Superior Court and is asking for the ZBA to reverse its decision. Since he has complied with the requests to remove certain structures etc, his permit has since been granted; however, the Town cannot retract his lawsuits. Only Mr. MacDonald can do that. Ms. Glover adds that he is asking for \$2 million in damages.

Ms. Eitler asks about the recent sign that Mr. MacDonald has put up on his building. There is a picture of it in the record. Ms. Glover indicates that he will be advised that he is in non-compliance by the zoning/code enforcement office. Chairman LaCourse adds that this issue should be directed to the Chairman of the Planning Board.

Kevin Crawford of 100 Stepping Stones Road asks who is representing Peter MacDonald in his lawsuits. Ms. Glover indicates that he is representing himself.

Tom Seubert expresses how angry he is. Peter MacDonald is throwing all of this in our face and making a mockery out of us. He is afraid if we let this happen it will set a precedent for this town. What is the Board going to do if an incident happens and someone is hurt or killed? What if someone goes over and does something because they are angry. Mr. Seubert brings up Packer Falls Road and his sign over there being illegal. Chairman LaCourse assures him that the Town is doing everything that they can at this time. The Town is following through on

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everything that they can. He appreciates Mr. Seubert's passion and we just have to be vigilant.

4. Chief Murch reports on the gun fire near 51 Snell Road. According to Chief Murch the property owner is Ed Kelley and the shooting on the property is not open to the public. Only people who are invited by Mr. Kelley and his son. He and Sgt. Dronsfield went out to the property on September 24th to take pictures and notes regarding the property. The range is facing the opposite direction from Mrs. Henry's property. Fish & Game and Sgt. Huppe determined the range is safe and meets all requirements per RSA 344:13. There are no Trespassing Signs posted and the range is a legal range in NH. The Lee PD do not use this range on a regular basis. They shoot in Madbury. However, in January or February 2013 the Lee PD did use it to qualify one of their new police officers. Chief Murch mentioned that he lives right across the street and neither his children nor his horses are affected by the shooting. Selectman Cedarholm asked what was beyond the targets that they shoot at in a southwest direction. Chief Murch said that the property that the Town just sold to Ed Kelley's son is behind the target and further down maybe ¼ to ½ mile on Old Mill Road there are other properties. He added that there is a substantial banking behind the targets which would stop anything from going through.
5. Roger Rice gave a PowerPoint presentation summary of the current Solid Waste ordinance which was adopted in 2003 Chairman John LaCourse requests that Mr. Rice submit the proposed changes and edits. He also suggests that he take out the things that do not exist or apply any longer from the items that are going to need to be changed and voted on by a legislative body. Selectman David Cedarholm asks if there is anything else missing such a new rules and regulations and laws. Suggests reviewing other Town's ordinances for consideration and comparison.
6. Roger Rice wishes to take the Cellular Repeater purchase off the table. The need and benefit are not there for the cost. Mr. Rice would like to go forward with the request to purchase the Wireless Bridge for the Internet. The service at the Transfer Station is extremely poor. They pay \$600 year for internet service; therefore, this would be a cost savings. Chairman LaCourse moves to purchase from BackBay Networks a Wireless Bridge for Internet Service in the amount of \$475.00. Selectman Cedarholm seconds. **Motion Carries.**
7. Town Administrator Julie Glover reports that the amount of information that we are getting to put in the Town Crier is minimal for the Fall edition, which gets mailed out to approximately 69 people. Most of this is news has already been published in the E-Crier; therefore, we may want to revisit the idea of stopping the distribution of the written version. Chairman LaCourse agreed to not mailing it out and suggested offering a written copy for public to pick up at the Town Hall and the Library so we can monitor how many are actually being distributed. Selectman Cedarholm suggested that a message be put in the Town Crier asking people to respond as to whether or not they are interested in seeing the Town Crier continue.

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Ms. Glover informs the Board that the volunteer that has been doing the gardening in the Town Center no longer wants to do it. We can put out a request for a volunteer, but just in case we do not get a response we would need a backup plan. We could do an Adopt a Spot or contact the Master Gardeners. It was suggested to put this in the Town Crier.

Ms. Glover addresses the issue with the old lights on the tree in the center. We need to take the old ones down. Do we want to continue with this tradition? It will cost between \$1400 - \$1500 for a new set of LED lights. Selectwoman Dennis asked about the history of this tree lighting. Ms. Glover indicated that it was done by a volunteer but that is no longer the case. Chairman LaCourse said it is important to continue lighting the tree and believes we should budget for replacing the lights and funding this project. Ms. Glover indicates that we still need to research the timer issue and the electrical implications. Ms. Glover will bring further information to the next meeting.

Ms. Glover read an article in Foster's that Lee is the only Town that is not doing Rumble Strips along the shoulders. Ms. Glover spoke to Mr. Grandmaison from the DOT and most people indicated the desire for rumble strips along the center and the shoulders. Chairman LaCourse asked Chief Murch for his opinion. He believes that we should do both for safety reasons. Chairman LaCourse moves to add Rumble Strips to the shoulders of the road in addition to the centerline. Selectman Cedarholm seconds. **Motion Carries.**

8. Chairman LaCourse moves to accept the Consent Agenda as presented. Selectman Cedarholm seconds. **Motion Carries.**

Ms. Glover presents Ford Estate documents and the 2013 MS-1 Summary Inventory of Valuation Form that require signatures.

9. Ms. Glover presents the Public and Non Public Minutes from September 16, 2013 for review.
10. Chairman LaCourse moves to accept the Manifest #6 and Weeks Payroll Ending September 8, 2013. Selectman Cedarholm seconds. **Motion Carries.**
11. Chairman LaCourse asks for any miscellaneous or unfinished business. Selectwoman Dennis updates the Board on the proposed Family Day which she hopes to be scheduled around the 2nd week in June. It is too cold for the seniors to try to have it this time of year.

Chairman LaCourse moves to go to Non Public RSA 91-A:3 II (b) at 7:00 pm. Two items Fire Chief Hoyt and Police Chief Murch. Selectman Cedarholm seconds. **Motion Carries.**

12. The Board returns to public session at **8:40 pm** and Chairman LaCourse announces that the non public minutes for the Fire Chief are public and the non public minutes for the Police Chief are to be sealed.

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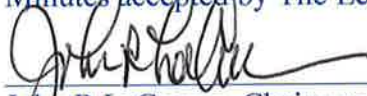
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13. Chairman LaCourse motions to adjourn at 8:45 pm.

Minutes transcribed by:

Denise Duval, Town Secretary


Minutes accepted by The Lee Select Board:



John R LaCourse, Chairman



Carole Dennis



David Cedarholm