

MINUTES OF SELECTMEN'S MEETING - July 16, 1990

Present for the meeting which began at 7:00 p.m. were Selectmen Johnston and Dodge, with Selectman Dodge taking minutes until 8:30 p.m. when Sandra Gendron closed the Town Clerk's Office. Selectman Mansfield was expected to arrive later in the evening.

Lee Murray, Road Agent would not be in for his regular meeting with the Selectmen having a personal family emergency to attend to.

The Selectmen went to Butterfield Mill Road accompanied by Police Chief James McLaughlin to view the condition of the road and arrange for Chief McLaughlin to document with pictures the existing conditions. The Selectmen felt very strongly that Frank Fillmore had been told on more than one occasion not to tamper or alter the existing Class V ~~VI~~ road and it was evident that he had indeed left the road in an unsafe condition leaving the Town, in the Selectmen's view, in a less than desirable situation from a legal standpoint.

Upon their return Chief McLaughlin met with the Board to review his first week on the job and to go over thoughts and ideas for the future. Matters of personnel appear to be smoothing out and Jim will be reviewing his budget to try to accommodate the expense of some much needed clerical help. The Town Office staff will also try to assist Jim in this endeavor as much as possible.

Next the Board of Selectmen met with Building Inspector Robert Milliard and Town Counsel Leslie Nixon to review the matter of the Regan's swimming pool. It appears that the Board of Selectmen, the Building Inspector and Counsel are in agreement and the matter will be pursued in court with Leslie filing the proper required paperwork.

Sandy Gallup, Recreation Director stopped by to say that Ronald Sweezey coordinator of several of the sports programs sponsored by the Junior Athletic League had disassociated himself with the JAL and was requesting of Sandy that all sports programs be brought under the guise of the Recreation Commission. He claims to have the support of at least two other members of the JAL who are very active in the coordination of the programming. Sandy further wanted to point out to the Selectmen that it appears that the Recreation Commission is listed on the charter of the JAL as a sponsor. The Selectmen requested that Sandy get a copy of that charter for their review and she agreed one would be provided. The Selectmen further suggested that Sandy might try to poll the members of her Commission to gain assurance that all were willing to accept the sports programs as their own. Sandy also related that Rick Matthews Principal at Central School stated that the JAL would not be allowed to use the gym this fall for their programs without proof of insurance.

The meeting concluded with the Board suggesting that Sandy follow thru making sure the members of the Commission were willing to accept the responsibility of the sports programs and a meeting was scheduled for July 30, 1990 at 7:30 p.m. at which time the Selectmen will meet with Ron Sweezey and the Recreation Commission will explain to the Board what the Town's involvement will be regarding the assumption of the sports programs.

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Next on the agenda was a meeting between the Board of Selectmen (Selectmen Mansfield having arrived) and Frank Fillmore who was accompanied by his son Jeffrey and Jeffrey's wife Jackie. Frank's wife Dorothy arrived during the course of the meeting which at times became very heated.

The meeting began with Frank inquiring of the Selectmen exactly what they expected to have done on Butterfield Mill Road and exactly how much money he would have to obligate to insure that this would be one more step closer to final approval for his proposed subdivision. He recalled that he had been in in January of this year to request permission to cut the trees and stump that area of land which he would be deeding to the Town of New Boston. Selectman Mansfield found the date to be January 15, 1990 and reviewed the minutes. Frank stated he wanted to blast the ledge on his property before deeding it to the town. Selectman Dodge asked Frank what he had done to the road in question since he had been told to stop any and all work on the town road and further asked who had dug up the side of the town road. Frank responded that he had picked up stumps, but had not disturbed the town road. The Board told Frank that the town road crew would stake out the affected area which would need immediate attention due to the hazardous conditions created by Frank and make repairs, the bill for such repairs to be sent to the Fillmore's. Selectman Johnston alluded to having seen roots removed from under the roadway and undermining taking place. Selectman Dodge went on to state that Frank had done just what he was told not to do and the Selectmen had been advised by Legal Counsel Leslie Nixon to take the above-stated action. Frank maintained that the stumps were not removed from the town owned portion of the road, but did state that some of the roots traveled a long distance. Selectman Dodge told Frank that the work that he had done was done so at his own risk, and this work done without Selectmen knowledge or approval had left the town in a libelous situation and again stated that the town would repair and bill the Fillmore's for said repairs.

Frank was then asked if he had a large excavator working on the site that did further damage to the town road and he admitted that he did have and that this piece of equipment had been parked on the town road. Frank began to elaborate on his struggle to seek final subdivision on this particular piece of property and the number of months that the process has been delayed and how he had felt compelled to go to the press with his story. Selectman Dodge contended that going to the press created nothing more than hate and discontent. Frank went on to relate his problems with the Building Department and intimated that he had proof that some Board members were being paid off. Selectman Dodge immediately asked Frank for documentation of such allegations and Frank said that he would provide this information to the Selectmen, but did not know if it would do any good. Selectman Dodge countered that Frank certainly did not know him very well if Frank did not realize that he would be extremely bothered if he thought someone was being paid off. The Board of Selectmen went on to state that problems can be resolved and it was not necessary to bring the press in for assistance.

Frank explained that this situation had been extremely costly to him and that he had not had any income for six months and was up against

a wall financially and has been fighting for his livelihood the best way he can. Selectman Johnston pointed out to Frank to go against a Board's decision does not help the matter. Frank contended that he only took stumps off his own property and had called Betsy Dodge, Chairperson of the Conservation Commission, when it became apparent that there might be wetlands involved and did not receive a response. Selectman Dodge stated that this did not concern the Conservation Commission, but Frank responded that he thought it did. Frank claimed to have shored up the road, but admitted that it was dug up presently. Selectman Dodge told Frank to stay off the road, that the Police Department would document the conditions as they currently existed exactly as Town Counsel had advised. Frank once again stated that he could not wait for the process, he has no money. Selectman Dodge felt that Frank created his own problems and asked that he reflect on the scenario which was that Frank bought this piece of property, sold lots prior to subdivision and then challenged the entire system at a time when economic conditions are worsening daily. At this point Selectman Johnston asked Frank how he could have contracts on lots with no subdivision and Dorothy Fillmore stated that these contracts were subject to subdivision approval and went on to state that this entire situation was caused by the Fire Department's assessment.

Selectman Dodge stated that the amount required for upgrading the road (\$7700) will not be reduced by the Board of Selectmen based on the damage now existing on Butterfield Mill Road. At this point discussion became heated and Frank asked how about the Dodge Brothers (referring to a subdivision of James Dodge brother to Selectman Dodge), Selectman Dodge responded that this was not relevant to the Fillmore situation that the Planning Board has procedures to follow to which Frank retorted that his name was not Dodge and Selectman Dodge countered that that comment was a low blow.

One more time Frank reiterated that his intentions had been good coming in in January to discuss the matter with the Board of Selectmen and his willingness to give land to the town, and Selectman Dodge one more time pointed out to Frank that he had kept going on his own after being told to stop. At this point Dorothy asked how long do we have to wait, if we had paid the \$5,000 it would have gone thru, (indicating in her words this was extortion) Selectman Dodge said probably (as a response to her comment on the \$5,000).

Dorothy took the comment of Selectman Dodge as having been an admission that if the Fire Department assessment had been paid then none of the present matters relating to final subdivision approval would exist and the family in agreement started to leave issuing threats of repercussion indicating that they finally had the statement they had been looking for. Selectman Dodge stated that they (the Fillmore's) were way off base and would have to wait until the process was completed. Dorothy left, returning at a later time, Frank remained in the Selectmen's Office stating that he had no faith in the Board of Selectmen and Jeffrey and his wife Jackie remained in the hallway.

Frank stated that he had not hired an attorney until April when he felt he had no alternative because of the issue relative to the Fire

Department assessment, he commented that he had been willing to go along with the town and on another matter regarding the size of a building lot when a portion of the lot has wetlands, Frank contended he did not start this issue at hand. Selectman Dodge stated he had supported depositing the \$5,000 assessment in an escrow account, the battle to be fought at a later date, and allowing the subdivision process to go forth. Frank's comment was that the Planning Board would have found reasons not to continue. Selectman Mansfield interjected stating no way would this be the case, the Planning Board was not looking for reasons. Selectman Johnston stated that anyone has any right to take issue with a matter, but they must expect to delay the process involved. Dorothy, having returned, stated that the matter could have been handled differently and Selectman Johnston stated that possibly so and could also have been handled differently by the Fillmore's. Frank agreed to this statement.

Dorothy then turned the discussion to the possibility of the town accepting a lot the Fillmore's owned on Jessica Lane in lieu of the \$7700. The Selectmen stated that this could be talked about. Dorothy commented that they did not have any money. The Selectmen went on to say this idea could be discussed with the Planning Board; however, they were of the opinion that the Planning Board is no longer willing to take lots in lieu of money, but again agreed that it could be discussed. The Selectmen also were unsure if this idea was a matter to be decided by the Selectmen or the Planning Board. Frank offered the information that the value of the lot on Jessica Lane was approximately \$59,000 and again stated how financially strapped he was, and emphasized that he had to do something even if it were wrong feeling he has no choice. He stated he may have "screwed up, probably did", but he has a house built now and cannot get power to it.

The Selectmen asked Frank about the Right of Way that needed to be built to the house under construction and further asked about the destruction that had taken place on the Class VI road without permission. Frank contends he only pulled stumps on his own land. The Selectmen asked about the ledge and rocks and Frank did admit to moving rocks. The Frank was asked why he did not notify the Road Agent or the Selectmen for permission to continue working, he replied that he would have been told to wait and he had to continue in order to build the house that was already under contract. He further responded that the trees were not cut on the ROW as yet. He then admitted that he may have cut a couple of trees other than on his own land, at which point the Selectmen responded that possibly if Frank had chosen to communicate things may have gone better. The Selectmen expounded on the fact that Frank had been told to stop and the work would be put to bid and yet he continued. Frank response was how long ago, all agreed that it was probably two months and Frank commented that this was still a long time. Selectman Johnston again maintained that Frank slowed the process.

Dottie stated that their lawyer did in fact suggest that they pay the \$5,000 and have it put in an escrow account, then take court action against the town and she claimed they did not want to do this. She went on to say that the Planning Board told them to contact the Conservation Commission regarding working in the wet

areas, which they did and did she not get a response. Dottie further stated she called officials in Concord and was told that the matter would be a local decision and then she was told by the Conservation Commission to file a Dredge and Fill permit which she said Concord stated was not necessary. Selectman Dodge supported the need for the filing of a Dredge and Fill permit based on the fact that the Town is required to file even to install culverts. He further stated that Chairperson for the Conservation Commission Betsy Dodge was leaving for an extended vacation the very day the Dottie called her; however, she did pass the information along to other members of the Commission. The Fillmore's claimed to have heard from no one.

Once again, Selectman Dodge commented that Frank had gone too far regardless of his frustration and now the Town would have to repair damages only making matters worse. Frank stated that he would have to blast ledge before he could put in the ROW to the house under construction and Selectman Dodge stated that he should wait until July 24th when he would have another hearing before the Planning Board. Discussion turned to the four items that would have to be submitted to the Planning Board on the 24th which would be necessary before final approval could be granted for his subdivision. Dottie asked how many deeds would be necessary for the land which was going to the town and Selectman Dodge stated that was a matter for the attorneys to deal with. Selectman Mansfield produced paperwork and discussion continued on the remaining items necessary for presentation to the Planning Board on the 24th, he further made the comment that there would be discussion on taking a lot of land in lieu of money for the off-site road improvements, stating that door would remain open to the possibility. Dottie made the statement, having been out of the office, when Frank discussed the value of the lot they were willing to offer, that this lot was valued at \$75,000. Selectman Dodge inquired as to why the Fillmore's had not sold at least one of the Jessica Lane lots at a substantially reduced price just to keep a cash flow, to which Frank replied that this would not have helped them since the mortgage on the property is still high due to the heavy borrowing they had to do to build the road. Discussion continued on the possibility of using a lot for collateral and Selectman Dodge posed the question where would the funds come from to pay a contractor if the lot was used by the town and another contractor was hired to do the off-site road improvements. Then the issue was raised as to whether Frank had equipment heavy enough to do the required work which he claims he does and the Selectmen are not quite as sure of. Frank contends that he has already done much of the work necessary with his equipment and further that he could provide proof of \$500,000 liability insurance as required by the Town. Selectman Dodge alluded to a contractor also being able to work with the Town, which is certainly in question in this instance and Frank agreed that this was true. Selectman Dodge stated that the work would have to be done in a timely manner and again stated that his biggest personal hangup would be the ability of the Town to work with Frank to which Frank once more agreed. There seemed to be general agreement that taking a lot as collateral would be of no value to the Town if Frank was not contracted to do the off-site road improvements.

Frank stated that he was going to continue to move stumps off his

own property to which Selectman Dodge responded that he was to stay off town property especially once it was repaired. Frank commented that he could not get his equipment off the road and he had made areas where he could get off the road. Selectman Dodge countered that Frank had now made a road more unsafe than it might have been before and created a liability for the Town. Frank did not agree with Selectman Dodge's assessment and countered that when some of the stumps were removed rocks fell and he pushed material to hold the road in place in an attempt to improve the situation. The Selectmen stated that they would now have to fill in some of the areas Frank created considering them to be dangerous to thru traffic.

Discussion once again turned to Frank's stating he could not deal with the anticipation and the Selectmen asking why this was the town's responsibility and Frank countering that he has been trying to do the subdivision. Selectman Dodge stated that the Town cannot be blamed because of the bad economic times and Frank forging ahead. Frank stated that the system is rotten that some members of the Planning Board had said to Frank that they would continue doing as they have been until they were taken to court. The Selectmen responded that this was certainly not the position of the entire board. Frank stated again that the fees assessed were not up front, were sneaky and he felt the rules were always being re-written. The Selectmen stated that much of what the Planning Board does is a learning process, that the Board had to look out for the best interests of the Town and this was not always in the best interest of the developer.

Selectman Dodge pointed out to Frank that there always seemed to be problems where the Fillmore's were concerned regarding any issues dealing with the town and the various board and regulations. Frank agreed that this seemed to be the case and proceeded to discuss the impracticality, in his opinion, of the regulations with regard to cisterns. Discussion continued on Frank's previous subdivisions and related problems and Frank's allusion that things probably won't get better. Frank continued by saying that most of the time he had been right, stating he did install a cistern which was accepted regardless of its unusual design. Discussion turned to Frank's defense of a contractor who had done less than desirable work in installing a cistern, Frank claims he fights for what he believes is right to which Selectman Dodge replied that sometimes there was more involved than meets the eye and the Selectmen were not so bad. Frank agreed and one more time stated he was a business person fighting for his livelihood to which the Selectmen responded they were fighting for the town and further stated they try to do the best they can and make changes as needed. The Selectmen continued and told Frank they could not sit back and do nothing. Frank commented that at times there were bound to be clashes and hopefully after all was said and done they could go on. Frank explained that he wanted the Selectmen to know how he feels. Selectman Dodge stated he still was of the opinion that Frank purchased a less than desirable lot. Frank responded by saying that he had customers who wanted low cost housing and he had to purchase land that also was not expensive. Selectman Dodge stated that he felt Frank's risks were unreasonable. Frank agreed that he might have been desperate and then once again reviewed all the delays and stated there were

other avenues he could have pursued, but refused to elaborate on. Selectman Johnston once again told Frank as he had earlier, if

someone contests the process then they must expect delays, to which Frank once again responded that he felt the Planning Board is sneaky.

Discussion then continued initiated by Selectman Dodge in reviewing the delays claimed occurred by Frank, that he created further delay by denying facts that others close to him said he was aware of. Frank defended himself by stating he must have missed it and claimed further delays were caused by the lawyers. Previous to this meeting and at other times during this meeting both Dorothy and Frank had accused Selectman Dodge of delaying some of the process because they had asked him specifically to check into certain matters which he had stated he had forgotten to do and apologized, once again, Selectman Dodge had to state he had forgotten to do something he said he would do and agreed that he had blown the opportunity and one more time Frank stated that he felt the Planning Board was dragging it's feet.

Again discussion turned to Frank's alleged accusations and Selectman Dodge insistence that if Frank had information that someone was being paid off then he should produce that evidence. Frank's response to this what maybe his information was not what it appeared to be but stated he would bring this information to the Selectmen claiming he knows it needs to be resolved so that it will not be an issue.

Once again, Frank stated why he had come to the meeting, to find out exactly what was going to happen claiming he would not put up any money until he knows what it is going to be spent for. He requested that the requirements be put in writing. The Selectmen agreed that this was possible. Frank explained the presence of his son and daughter-in-law Jeff and Jackie Fillmore stating they were involved in the business. Selectman Mansfield once again inquired of Frank what he expected now and Frank stated he needs to know what has to be done on Butterfield Mill Road. Selectman Mansfield asked if Frank was going to propose using a lot of land as collateral. Selectman Johnston asked why the Board of Selectmen would have a lot valued in the vicinity of \$75,000 to recoup \$7,000 and discussion continued on this point and the fact that Frank may not be able to give a clear title to this lot; however, Jackie Fillmore thought that the particular lot in question might be clear. Selectman Mansfield stated that the Board would entertain the notion of using a lot as collateral, but they would need more facts and the agreement would have to stipulate that the lot could be sold for less than the appraised price.

The meeting concluded with Frank generally agreeing to "screwing up" and Selectman Dodge cautioning Frank if he were to continue to remove stumps he must remove them thru his own property. Frank apologized for the condition of the road claiming it was not intentional, Selectman Dodge stating that the real issue was that the road should have been left alone and Frank commenting that he did not know what he had been thinking of.

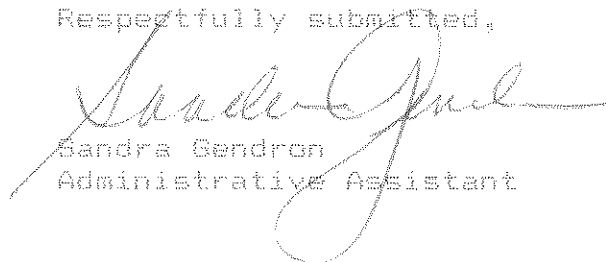
The meeting continued with the Selectmen selecting the Jury List which has to be returned to the Superior Court no later than August 1st.

The Selectmen had met with Bill Forest who had submitted the low bid for the building to be constructed at the Transfer Station and would be signing his contract in the amount of \$43,291.00.

The Board voted unanimously to accept the Recycling Grant Program funds and enter into a contract with the Office of State Planning.

Checks were signed, mail was reviewing and the meeting adjourned shortly after midnight.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sandra Gendron", written over the typed name and title.

Sandra Gendron  
Administrative Assistant

As an addendum to these minutes it should be noted that Mr. & Mrs. Fillmore were contacted by phone and a follow-up letter was sent documenting the Planning Boards procedures that required cash only for off-site road improvements thus making the issue of the posting of a lot in lieu of cash moot.