

TOWN OF NOTTINGHAM
Selectmen's Meeting
August 1, 2011

6:43 PM, Chair Anderson thanked everyone for their patience and explained that the broadcast equipment was experiencing technical difficulties and the meeting would not be broadcast. Chair Anderson opened the meeting and asked all those present to stand for the Pledge of Allegiance.

Members Present: Gary Anderson; Mary Bonser, Hal Rafter

Members Absent:

Guest: Sam Demeritt, Chair, Nottingham Conservation Commission; Chris Mills, Resident

Others: Charles Brown, Town Administrator; Traci Chauvey, Recording Secretary; Gail Mills; Karen Davidson; Judy Cole Baillargeon; Robert Ernst; Marianne Ernst; Helen Rossi; Donald Rossi; Gayle Williams; Evan Williams; Jim Ovens; Rae Christy; Ed Kotowski; Donald Morel; Lucien Morel; Susan Mooney; Liz Kotowski; Bob Fleeson; Gil Rogier; John Andrade; Katherine Eaton; Lee Bartlett; Skip Seaverns; Deb Stevens; Richard Morrissey; Maureen Morrissey; Pamela Kelly; Phil Auger

MINUTES

JULY 18, 2011 (Meeting)

Prior to addressing the details of the minutes, Mr. Rafter voiced his opinion that he feels residents should be able to come before the selectmen and not feel intimidated. He noted that selectmen run for office and are, by natural order, under fire. He admonished Ms. Bonser's behavior toward Ms. Mills at the July 18 meeting and, also, commented on Chair Anderson not stepping in to stop the exchange. Chair Anderson thanked Mr. Rafter for his thoughts and provided his own feedback. He spoke of the difficulties of stopping a conversation mid-stream and not being able to control what others say. He feels he is doing his best and will continue to do so. He opined about being courteous and considerate of one another, noting that the issues are important to everyone. He acknowledged the difficulty of not making them personal. Acknowledged by Chair Anderson, Ms. Bonser indicated she had not meant the interaction to be confrontational and personal to Ms. Mills. Her intent had been to use the monies raised and appropriated for Gebig Road as an example of the inequity. She is offended that Ms. Mills would begrudge the minimal maintenance to those on private roads when so much money was raised and appropriated for Gebig Road, the road on which Ms. Mills lives, by all residents including those on private roads. She, again, stated she believes there is a moral obligation to provide emergency access to all residents. Mr. Rafter, again, stated it is hard for residents to come before the selectmen to begin with, the prospect should not be made any more intimidating. At Ms. Davidson's inquiry, Chair Anderson stated there would still be a discussion at 7:45 with Mr. Mills regarding selectman behavior. Acknowledged by Chair Anderson, Ms. Mills addressed the selectmen and clarified for all that Gebig Road is not her road, many residents live on Gebig Road, it is a town road. She has addressed this issue differently from Ms. Bonser, with facts, not meanness or yelling. There was a brief back and forth between Ms. Bonser and Ms. Mills over the accusation of yelling. Chair Anderson moved the conversation back to Ms. Mills' response. Ms. Mills is interested to know how much money has been spent maintaining the private roads and wants to be sure the laws are followed. She found Ms. Bonser's attitude to be insulting. There was another interjection from Ms. Bonser. Chair Anderson, again, redirected the conversation to Ms. Mills' response. Ms. Mills said she was only

stating the way she felt. There was another brief back and forth about yelling. Chair Anderson ended the subject and redirected the conversation to the approval of the minutes.

Line 45: Change *road* to *roads*

Line 47: Change *e-mail* to *e-mails*

Line 200: Change *need* to *needed*

Line 201: Change *exception* to *exceptions*

Line 234: Change *not* to *no*

Line 242: Change *road* to *roads* and remove the duplicated instance of *which*

Line 259: Changes *notices* to *noticed*

Line 303: Change *they* to *the*

Line 321: Change *of* to *from*

Line 336: Remove the duplicated instance of *private*

Line 349: Change 9:45 to 8:45

Line 360: Change *damaged* to *damage*

Line 362: Change *who* to *whom*

Line 364: Change *notice* to *noticed*

Line 366: Change *required* to *require*

Motion: Rafter, second Bonser to approve the July 18, 2011 meeting minutes as amended.

Vote: All in favor. Motion passed: 3-0

JULY 25, 2011 (Workshop)

Line 45: Add *been*

Line 114: Change *Netishen* to *Anderson*

Discussion: Ms. Bonser noted the minutes did not indicate the selectmen had returned to the discussion around the Criteria for Declaration section and decided to leave the word Initial in the title. It was clarified for the record that the word Initial is to be left in the title of this section.

Motion: Bonser, second Rafter to approve the July 25, 2011 workshop minutes as amended.

Vote: All in favor. Motion passed: 3-0

JULY 25, 2011 (Non-Public)

Lines 5 & 6: Remove the opening sentences as they were left-over from a previous set of minutes.

Line 43: Change *in* to *both*

Motion: Bonser, second Rafter to approved the minutes of the July 25 non-public session as amended.

Vote: All in favor. Motion passed: 3-0

ADMINISTRATIVE BUSINESS

DEPARTMENT REPORTS

Highway – Mr. Brown reported that Mr. Fernald had had a successful surgery on his ankle. Ten proposals have been received for the new highway garage. Many options have been submitted and some are lengthy. It is not like comparing apples to apples. Acknowledged by Chair Anderson, Ms. Davidson inquired about rebuilding in the same spot. Mr. Brown informed her the insurance company was going to depreciate the cost by 31%, if not built on the same site. He further indicated there are still plans to build a smaller building at the sand pit in the future. The

8,000 square foot building being proposed for the new site, by the building committee, is not feasible. At Ms. Davidson's inquiry, Mr. Brown explained there would be no problems with DES to rebuild on the same site, adding that the sand and salt sheds would not be returning.

Ms. Bonser reported she had had opportunity to meet the new police officer and inquired as to whether he would be brought before them for a formal introduction. Mr. Brown explained that the Chief, Gunnar Foss, is away on vacation this week.

APPOINTMENTS

7:00 PM – CABLE FRANCHISE RENEWAL AGREEMENT PUBLIC HEARING

Motion: At 7:11 PM, Rafter, second Bonser to open the public hearing.

Vote: All in favor. Motion passed: 3-0

Chair Anderson read an opening statement, which provided purpose, history, and authority for the process. The selectmen, then, each read a section of the Executive Summary received from Attorney Miller. (These documents can be found in the official minutes file, and are incorporated herewith.)

Ms. Bonser discussed section 10.5, noting she would like some type of a tickler file set up to make the annual request for Comcast's Annual Report. Chair Anderson suggested they change the agreement to have the Annual Report automatically sent to the town. This would re-open negotiations and the selectmen decided not to do this. Chair Anderson read into the record an e-mail from Mr. Stucker, who chaired the franchise agreement committee and was unable to attend the meeting, regarding a senior citizen's discount. Chair Anderson and Ms. Bonser explained Comcast only offers these discounts to individuals who can prove financial need and this an agreement between the individual and Comcast, not the town. Chair Anderson called for public input.

Acknowledged by Chair Anderson, Mr. Seaverns asked if the selectmen would consider including the annual report from Comcast in the town's Annual Town Report. The selectmen agree this is something to consider. Acknowledged by Chair Anderson, Ms. Davidson inquired about whether or not this report is currently reviewed. It is not. She confirmed with the selectmen the contract term is seven years. Chair Anderson explained this was a negotiation, as ten years is the normal term. He, also, reminded all about the non-exclusivity clause. Lastly, Ms. Davidson inquired as to whether residents should contact the selectmen with their Comcast problems. Mr. Brown informed her the selectmen's office does have a form for this. The town office will then fax the form to Comcast. Ms. Bonser suggested the residents not place a lot of faith in this process, as Comcast moves slower for the town than for individuals.

Acknowledged by Chair Anderson, Mr. Mills inquired about the vote at town meeting to set up a separate fund in which to deposit 50% of the cable franchise fee received by the town. He noted the equipment is not working this evening and stated the town's equipment is pathetic compared to the school's. Chair Anderson acknowledged Mr. Mills' angst, noting it has, also, been bothering him. He wants to see the selectmen move this along.

Acknowledged by Chair Anderson, Ms. Kotowski suggested some type of an expansion clause, whereby the town would be able to renegotiate things such as live streaming of meetings and such. There was a brief discussion around whether this is a service provided by Comcast or has to do with equipment. Mr. Brown indicated that if it was a Comcast service, they will do it as long as they can charge all the subscribers for the cost. Ms. Kotowski voiced concern over the changes that can/will take place over a seven year period. Mr. Brown and Ms. Bonser indicated this is the reason the selectmen did not push the Steven's Hill Road issue; they believe there will be better technology before the subscribers would be done paying the cost.

Receiving no other public comments, Chair Anderson called for a motion to close the public hearing.

Motion: Bonser, second Rafter, to close the Comcast Cable Franchise Renewal Agreement Public Hearing.

Vote: All in favor. Motion passed: 3-0

Motion: Bonser, second Rafter, to sign the Comcast Cable Television Franchise Agreement.

Vote: All in favor. Motion passed: 3-0

Motion: Rafter, second Bonser, to approve and sign the side agreement.

Vote: All in favor. Motion passed: 3-0

7:30 PM – CONSERVATION COMMISSION – DISCUSS POSSIBLE ACQUISITION OF TWO PROPERTIES

At 7:50 PM, Chair Anderson acknowledged Mr. Demeritt.

Mr. Demeritt and Ms. Mooney addressed the selectmen. They provided a map display showing the properties being discussed and properties already in easements. The Merriam-Daggett and Tasker properties would become part of the 4 Generals Greenway. Both properties are currently in easements through the Wetlands Reserve Program (WRP) and the owners are willing to sell them to the town for a nominal fee. The Tasker property contains one of the largest aquifers in the town. There are limited trails on the properties. Both the Boy Scouts and the recreation department have been contacted to discuss opening the trails further. Mr. DeButts, head of the Boy Scouts in Nottingham, believes this would be a good long term project for someone trying to attain Eagle Scout. Ms. Horvath has concerns about the perpetuity of the easements.

The Merriam-Daggett property is approximately 45 acres and is being offered to the town for approximately \$42,000. The owners have received \$188,625 for the easement. The Tasker property is, also, approximately 45 acres and is being offered for \$16,450. The owners have received \$76,442 for the easement. These expenses would be paid from the Nottingham Conservation Commission fund.

Ms. Bonser noted the easements are 16 pages and quite restrictive. Acknowledged by Chair Anderson, Mr. Auger agreed the easements are restrictive. The town will get compatible use authorization agreements which will allow forest management, trails, and such. He further noted that there has to be a managed plan in place in order to get the side agreement. He agreed to get these documents to Mr. Brown for review by the town's attorney. There was a brief discussion around obligations of the owners, which would be overseen by the federal government as the easement holder. There is a restoration program requirement with the WRP, which is paid 100% by the WRP. Once the restoration is complete, there is no further obligation. The Tasker

property may contain invasive aquatic plants; the program will pay 100% of the cost for the restoration of this property. There was a brief discussion around trailheads. Parking may be an issue. Ms. Bonser voiced concern of having the federal government overseeing the easements.

The selectmen discussed a meeting with the attorney. Mr. Rafter suggested confirming the easement is still in place at the time of purchase.

7:45 PM – CHRIS MILLS – DISCUSSION AROUND SELECTMEN BEHAVIOR

At 8:12 PM, Chair Anderson acknowledged Mr. Mills.

Mr. Mills read a prepared statement, noting he wanted everyone to know he had come with this prepared statement and it was not contrived due to the earlier conversation. Mr. Mills admonished Chair Anderson for not controlling the meetings. He stated he did not go to the workshop on July 25 because he believes public comment is not allowed, but then discovered public comment was heard at the workshop. He feels it was actually a round-table discussion and would have attended if he knew he could speak. He also feels that Ms. Bonser ran the meeting. Mr. Mills voiced concern that Chair Anderson had announced, at the meeting on July 18, that speakers would come to the mic and, then, some residents were allowed to speak from their seats. He indicated that residents who live on roads designated as emergency ways in 1995 were allowed to speak and he feels their comments were irrelevant to the topic at hand, the Emergency Lane Designation Policy. He feels these people were erroneously led to believe this policy could affect them. He chided the selectmen for not speaking up to correct Mr. Fensom when Mr. Fensom said something about the roads being grandfathered. He feels the only criteria in the policy should be that it is in violation of the NH Constitution to spend tax payer money on private roads for the purpose of benefitting the few, not the many. He scolded them for not publicly acknowledging this is a constitutional issue and the town is at risk for a law suit. He feels Chair Anderson has not had a good example of chairmanship over the past years but he expects more from the meetings, noting the meetings have become too informal. He confronted them about private road status being recorded with the deed and referred to RSA 674:41. He indicated the town must not be following this law. Mr. Mills stated Ms. Mills was performing her constitutional duties by raising the legality of this issue. She is only trying to do what is right and determine whether \$100,000 of tax payer's money is being spent illegally. He further stated the selectmen have never addressed the budget committees request to look into the legality of maintaining these roads but have, instead, sidetracked the issue by creating the policy. He feels Ms. Mills has not made this a personal issue but has been attacked in e-mails from a committee member and town employee, as well as being personally attacked by Ms. Bonser in a public meeting. He is disappointed that Chair Anderson has not publicly censured Ms. Bonser for her behavior and requested that he do so, as well as require a public apology.

Chair Anderson responded, noting that quite a bit of this had been covered at the beginning of the meeting, and acknowledging that Mr. Mills covered a lot of areas in his statement. He does not feel he can respond to all areas without having the statement in front of him. He recognized Mr. Mills' unhappiness with the job he is doing; however, he again, stated he is doing his best and will continue to do so. He apologized for not living up to other's standards but feels he is doing his best. Chair Anderson reiterated he cannot control what another person says but feels all the members should act professional. He stated he cannot make anyone apologize but would suggest it. Mr. Mills stepped down.

Acknowledged by Chair Anderson, Ms. Bonser responded to the issue of private road status being recorded in the deeds. She indicated the law Mr. Mills referred to was enacted sometime around 1990, noting that the older deeds would not have had this information recorded and that whether or not the newer ones are recorded is entirely up to the attorney involved. Responding to the comments around her behavior, Ms. Bonser, again, noted she was only pointing out the inequity of the situation in regards to begrudging the minor maintenance provided to these roads under the law. She feels the selectmen are making a serious attempt to abide by the law and fulfill a moral obligation to provide emergency service access to all residents. Ms. Bonser feels she is also personally attacked on a regular basis. Chair Anderson interjected that as public officials they are open to that sort of thing. Ms. Bonser acknowledged her status, noting she is also a citizen and has rights. She stated she will not be muzzled and she will speak the truth for residents of the town.

Acknowledged by Chair Anderson, Mr. Mills again stepped forward. He noted that town roads are voted on by the legislature of the town with the knowledge that public monies will be expended for maintenance and repair of these roads. He further stated that the legislature has never voted to expend funds on the private roads. Mr. Mills stepped down.

Acknowledged by Chair Anderson Ms. Davidson stepped forward. Ms. Davidson stated she has researched this issue. She noted all the information provided tonight by Mr. Mills, she has previously sent to the selectmen. She referred to RSA 674:41 and the issuance of building permits on private roads. She noted the selectmen are suing the ZBA under the guise of this RSA and feels that they should stand on the same ground for all issues. She thanked Chair Anderson and Mr. Rafter for their efforts. She feels that Ms. Bonser's comments at the meeting on July 18 led people to believe that Ms. Mills supported the reconstruction of Gebig Road as a budget committee member, when Ms. Mills was not on the budget committee when the road plan was put in place. She further noted the reconstruction was a warrant put forth by the selectmen, not the budget committee. She feels there is also an inequity when residents of new roads go before the town to have their roads legally accepted and relayed her own experience. She feels that not everyone is willing to share the costs. She again thanked Mr. Rafter and Chair Anderson before stepping down.

Chair Anderson moved the conversation to the policy.

GENERAL BUSINESS

EMERGENCY LANE POLICY

Ms. Bonser indicated she had made some corrections to the policy based on comments. Chair Anderson feels it would be fair to hear more public comment. At Ms. Eaton's inquiry, Ms. Bonser explained the selectmen were not, yet, prepared to discuss the roads that fell through the cracks of the 1995 meeting.

Point of Order: Mr. Brown left the meeting for approximately 2 minutes.

Acknowledged by Chair Anderson, Mr. Rogier discussed the 1995 meeting, noting he remembers it well; it was approximately 2 hours long and it was decided that what was being

done would continue to be done. He wants to know what has changed other than road names. He believes this is part of the problem and used Union Street (formerly Birch Road) as an example. Chair Anderson, again, noted the selectmen would be working on the policy this evening and he was hoping to obtain new comments on that issue. Mr. Rogier stated it is common sense that Union would be approved since both Water Street and Rogier are approved and questioned how else you would get from Water Street to Rogier. He feels he should not have to go through this process again. Mr. Rafter informed all that it is possible the police department may have a copy of the written findings from 1995. Mr. Rogier stated he feels like a second class citizen, and noted the difficulties of obtaining insurance.

Acknowledged by Chair Anderson, Mr. Seaverns addressed procedure regarding the policy and the reinstatement of the three roads recently rescinded. He suggested the selectmen hold off on approving a policy until after reinstating the roads. There was a brief discussion around whether the roads would come under the new policy. Chair Anderson indicated the selectmen need to have the policy to follow in determining whether or not a road can be designated an emergency way. Mr. Seaverns feels that if the police department has documentation from the 1995 meeting, the new policy has no bearing on the roads recently rescinded, and further believes that the issue of the roads rescinded needs to be addressed prior to the institution of the new policy.

Acknowledged by Chair Anderson, Mr. Bartlett acknowledged great respect for Mr. Fernald, Nottingham Road Agent, and stated that the people on these roads are simply looking for what they have always had. He does not believe that Mr. Fernald would take it upon himself to plow roads that were not approved.

Acknowledged by Chair Anderson, Ms. Kelly addressed Step 2: Public Hearing section of the policy. She questioned what it was saying, noting she feels it is ambiguous and should be reworded to indicate that the selectmen would vote whether to consider the request. Ms. Bonser stated the selectmen intended to finalize and adopt the policy, the final policy would be reviewed by the attorney, and if there are future reasons for amendments they would be made. At Ms. Williams' inquiry, the selectmen noted the draft policy had previously been reviewed by the attorney.

Motion: Rafter, second Bonser to approve the final draft of the Policy on Declaration of Class VI Highways and Private Ways as Emergency Lanes Under RSA 231:59-a dated 07-25-11.

Vote: All in favor. Motion passed: 3-0

At public inquiry, Chair Anderson informed all the selectmen will hold a meeting Monday, August 8 at 7:00pm. During the upcoming week, they will gather whatever information they can from the police department and be prepared to make a determination on the course of action to take on the three recently rescinded roads.

Acknowledged by Chair Anderson, Ms. Christy read from the minutes of the May 9 meeting which indicated the three spurs on Barderry Lane were approved emergency ways. Mr. Brown explained the ratification made by the selectmen that evening has been disputed. Acknowledged by Chair Anderson, Ms. Kotowski spoke to the issue of paper roads in the Dolloff Dam / Lamprey Drive area. Ms. Cole asked if a list of the roads being discussed would be on the agenda. Selectmen confirmed the roads are the three spurs on Barderry, Union Street, and Lamprey Drive and noted they would be listed on the agenda for next Monday.

Point of Order: There was a short break from 9:11pm to 9:16pm, while the audience dispersed.

When the meeting resumed, Ms. Bonser inquired about obtaining information from the police department. Mr. Brown informed the selectmen he did not have time prior to Monday to research this issue with the police department and noted the Chief of Police is on vacation. Mr. Brown will send the policy to Attorney Teague. There was discussion around the requests that have been received to consider new roads as emergency lanes. Mr. Brown informed the selectmen he raised this issue with the attorney who informed him that the selectmen do not need to consider any more roads; a moratorium can be placed on emergency lanes.

Ms. Chauvey informed the selectmen she had much difficulty taking notes at this meeting due to the whispering taking place among audience members. Chair Anderson acknowledged the chatter that had taken place and noted he would try to be more conscious of this and put a stop to it during the meeting.

Having no further business,

Motion: Rafter, second Bonser to adjourn the meeting.

Vote: All in favor. Motion passed 3-0

Meeting adjourned at 9:30 PM.

Respectfully submitted,

Traci Chauvey

Recording Secretary

Approved as amended at the September 12, 2011 meeting.