

## **Minutes**

### **Albany NH Selectmen's Meeting**

**November 20, 2013**

At 3:00 p.m., the Selectmen's meeting was called to order. In attendance were Jack Rose, Kelly Robitaille and Rob Nadler. Also present were Lee Grant, June Johnson, Steve Knox, Leah Valladares, Curtis Coleman, Mike Martin, Rick Alimi, Pete Howland and Lee Hines. Tara Taylor joined the meeting at 3:30 p.m. The following business was conducted.

#### **Regular Business:**

- Reviewed & approved November 13 minutes-Jack made a motion to approve the minutes as submitted, Kelly seconded the motion and all were in favor.
- Signed checks totaling \$9,032.67.
- Reviewed & approved medical insurance rates 2014-2015.
- Reviewed e-mails from town counsel--see below.
- Reviewed & approved two building permits, denied one building permit application and referred the applicant to the Zoning Board of Adjustment for a variance.
- Reviewed e-mail from town counsel regarding Fairpoint appeal-All appeals will be combined in to one and transferred to the Merrimack County Superior Court.
- Reviewed & approved Municipal Sharing Pool.
- Reviewed letter from Tabor Circle property owner regarding violations-the property owner submitted a building permit application but says his tenant is not running a business on the property. Peter will continue to inspect for any signs of commercial activity.
- Reviewed letter from Time Warner Cable.
- Town Administrator Report-see below

#### **E-mails from Town Counsel:**

A question had been raised regarding the requirement of having a contract for road services with Coleman & Son, Inc. Walter Mitchell of Mitchell Municipal Group responded to the inquiry. His first concern was if the company held worker's compensation insurance; they do. The second concern Walter had was the requirement to have Coleman's post a payment bond involving any expenditure over \$35,000. A payment bond assures payment of subs and material suppliers, and protects the town by making sure that there

are no mechanics liens placed against town property. Walter does not believe there is a significant risk of liability for the situation described. Walter believes a simple contract may be placed describing rates that will be used if for instance, the work is being done on an hourly basis. Kathy told the Board a typical job done by Coleman's does not exceed \$35,000. It would not require a payment bond. Jack said he did not think a move had to be made on a contract with Curtis. Kelly and Rob agreed.

**Town Administrator Report:**

The certified mailing to Edward Guppy has been returned as unclaimed. A letter and a personal check for \$500.00 was received from Edward's sister, Grace. The letter included her phone number. Kathy called her to let her know the personal check could not be accepted by the town as she did not have a legal interest in Edward's property. Grace told Kathy that Edward is in a VA hospital in Rhode Island having procedures done and she was trying to help him. Kathy informed Grace of her prior conversations with Edward and he was supposed to write a letter of intent regarding his property. Grace is going to try to visit Edward in the hospital but it is difficult as he is over an hour away.

Kelly stated he does not want this issue to continue on and on. We are doing everything that is required by law. Jack suggested waiting 30 days for a written response from Edward. Kelly agreed saying the intent must be a serious one.

**Mike Martin (USFS), Rick Alimi (USFS), Dee Hines (USFS) and Pete Howland (Cersosimo Lumber):**

Rob started by saying the Board's intent is to make sure Passaconaway Rd. does not get trashed by the logging trucks and there are numerous ways to go about it; bonding the road is one. Curtis added he would also like to discuss winter plowing and noted permission would have to be granted by the Selectmen.

Mike Martin said he had come before the Selectmen before to discuss the Northeast Swift project. It has gone through its assessment phase and recently he sent a letter to Selectmen requesting a weight exemption of the bridge over Big Brook. Curtis said he doesn't dispute that DOT says the bridge is capable of withstanding 80,000 pounds but the town has it posted at six tons. Mike would like some documentation for the loggers to carry in case they are stopped by law enforcement for being overweight.

Mike went on to say the sale is packaged up for seasons. Traditionally, Passaconaway Rd. is gated up to the covered bridge. Some cuts would require opening of the road but the gate would be closed behind the loggers so it will be closed to through traffic.

Rob asked how the Forest Service would be able to help with damage to the road. Mike replied bonding had been brought up and there are various federal programs. Rob said the town can require a road bond, but who it applies to depends on who you talk to. What will the Forest Service do to help with road damage? Mike informed the Board a law had been passed regarding road bonding. It directs if a bond was required for a reason, that bonding requirement would be equal to all users. If you bond for one, you bond for all. It should be addressed equally.

Curtis asked Pete how much a logging truck would weigh. Rick Alimi said state law says weight is weight and it doesn't matter what the truck is hauling. Curtis said, the amount of the bond is the difference and that is up to the town. Rick asked if the road was bonded, would there be an equitable weight limit for the bridge or is there another way?

Jack was concerned about the amount of traffic over the road. Curtis added it would be approximately 1400 loads over five years and he thinks everyone needs to know what it is. If the trucks are running over the road and there is damage because of it, Albany would be stuck. Mike told the Board the contract requirements are that this will be a mix of semi axle trucks. Mike went on to say that in prior years, the Forest Service has worked with Albany to help protect the roads through programs that were available and those programs are no longer available. The funding programs that are now available are based on national merit. It is no longer state wide which makes it more difficult to obtain money. Mike pointed out that the payment in lieu of taxes is still available and Albany can spend that money as it wishes. Lately that payment has been just shy of \$100,000 per year. Rob asked if the Albany's proportion could be changed. Mike said it goes by a formula which is set at a federal level. Mike spoke of a 25% shared fund that generates revenue from federal lands and then 25% is paid to the town. That data was shown at \$20,000 to \$40,000. Albany will also receive the timber tax from the logging operation. Kathy asked Mike about the revenue sharing program as she does not remember receiving that kind of revenue in the past. Mike was not completely sure of the name of the program but said the check would come from the State of NH.

Rob asked Mike if the whole five year project is already bid out. Mike replied yes. Rob said, so there is no money in the budget for road repair. Mike replied no.

Kelly stated that over five years, who is to say if and when there has been damage done to the road and if damage was done after two years, do we wait the five years to have it fixed. Rob's concern was above and beyond regular damage, how does Albany pay for additional damage? Curtis asked what the protocol is going to be. Maybe there will be no damage, that is great but, what happens if there is damage and what does the town do? We need an avenue. The Board of Selectmen has the say about the roads and we need recourse. Curtis went on to say if the gate is opened for winter logging then the barrier before the Covered Bridge would need to be removed but something needs to be in its place to prevent damage to the Covered Bridge.

Jack added another issue is the gated portion of Passaconaway Rd. had never been driven on in winter. Rick replied the Forest Service has plowed and logged there before so this is not a first time occurrence. Curtis said it has never been plowed since the rebuild. Jack said there are a lot of questions and he does not want the town to be stuck. Rob thought the only way to protect the road is to require a road bond.

Pete Howland said he didn't think travelling over the road in the winter will be an issue. The trucks will stay in the middle of the road and they will take care of the plowing. Pete approximated 50% of the logging will take place in summer and the rest will be fall and winter and probably 40-50% of the logging is beyond the gate. Pete has already taken a video of the road to show what condition it is in now. He added a road bond is fine as long as everyone is bonded; in the summer there are trash haulers and motor homes that travel that road.

Jack said something needs to be placed by the Covered Bridge so skimobiles can't travel over it. Pete replied there is nothing there to stop them now. Rick didn't anticipate any problem with skimobilers. If there is a problem, a barrier will be placed but there has been no problem in the past.

Curtis advised the Board to make the decision that if the Covered Bridge barrier is removed that something else be placed there to protect the bridge. Rick said signs could be posted on the current barrier posts warning about the bridge ahead. Rob suggested a breakaway barrier.

Kelly suggested that the town should also video the road prior to logging and then both the logger and the town should sign off on it. It would be the only

way to ascertain if any damage has been done. Kelly feels the problem will be who decides the point at which enough damage has been done to the road to require repair.

Steve Knox noted a portion of the road by the old Dugway picnic area has water that comes off the slope and never freezes. Steve recalled walking out that way and seeing water year round. Pete said there are a few shoulders that are not up against the side and the stretch that Steve spoke about has two trees in a ditch that has not been cleaned out. Curtis replied the bottom line is who is going to pay for the road when it is broken. No one has said who is going to pay and Albany can't pay for it when it gets opened up like a zipper. Curtis feels the logging company needs to be responsible for it. Mike pointed out the infrastructure of the federal government pays yearly such as payment in lieu of taxes. Curtis again asked who will pay for damage. Pete replied the logging company won't be held responsible for the whole distance of the road. Curtis replied someone has to be responsible and it shouldn't be the Albany taxpayers. Pete didn't see an issue by posting a road bond as long as the town insists everyone else does too. Jack said bonding is needed and if certain delivery trucks require bonding the town will look into it. Curtis stated the town needs reassurance.

Kelly didn't think the road needed to be opened in the winter. Jack asked Pete if much logging would be missed out on if access wasn't granted for the winter. Pete replied yes. Rob asked if two bonds could be required, one for the gated part of the road and another for the open part of the road. Kelly said maybe one bond large enough to feel safe. Curtis said he would make the value low enough to address it yearly so money is not being thrown away for no reason. Every road bond is different and we could be able to identify clearly any damage that had been done. Steve added the bond is like an insurance policy, if damage is done then the insurance company pays. Rob asked who would determine the amount of the bond. Curtis replied the Board of Selectmen do.

Jack suggested doing the bond in two stages, set up one bond from the gate up and one for the gate down and it would be best if Curtis set the amount as he knows what how much it would take to fix it. Pete explained to the Board the loggers are not out to destroy the road. Jack replied the town had been burned before. Mike told the Board in past sales in Jackson and Bartlett, there had been similar discussions and to his knowledge there were no significant issues. Curtis said his concern is for the narrow parts off the road. Jack asked Curtis if he was satisfied with the NHDOT bridge inspection report saying the bridge over Big Brook could withstand 80,000 pounds even though it is rated an E2. Curtis does not want to sign a letter of exemption

from the weight limit on the bridge. Jack asked who would pay if the bridge collapsed. Rick said the road bond would cover it. Curtis said the state's rating is uncertified. Pete told the Board the whole truck would not be on the bridge at once. Curtis told Pete he will discuss a bond amount with him within the next week and then asked about winter plowing as he usually dumps snow in front of the gate. Pete asked that the plows to move it to the side because the pile would be difficult to remove if it was a wet snow then froze overnight.

Rob told Pete the Board wants the gate closed behind the loggers. Pete replied it is part of the contract and yes the gate will be closed. Rob said the only issue left was the Covered Bridge. Some sort of barrier needs to be placed in order to protect it from damage. Mike suggested something with chains. Curtis thought someone could push through that. Mike said he will take care of that. Tara Taylor asked why Albany is spending money on the issue. Jack told Tara the Forest Service will be paying. Mike added they could have some enforcement and a radar set up for renegade skimobilers if it becomes a problem.

Rob asked about the weight limit on the bridge over Big Brook. Curtis said if the Selectmen give him permission, he will remove the six ton weight limit. Jack told Curtis to remove the posting but there will be no letter of exemption for the loggers. Pete said signs will be posted on the narrow portions of the road advising of logging traffic. Kelly said he would like to see the signed agreement on the condition of the road before logging begins. Curtis said there should be an annual inspection of the roads. Jack would like Curtis and Pete to come up with an acceptable amount for the road bond.

**Public Comment:**

Tara suggested the Board double check with the state regarding the rating of the bridge because one 80,000 pound truck can do as much damage as 9,000 cars. Rob told Tara the Board has received the NHDOT engineer report on the bridge.

Jack announced the Albany Party Group is looking for help to set up for the Annual Christmas party either Wednesday or Thursday, December 4<sup>th</sup> or 5<sup>th</sup>. If anyone has available time, please volunteer. Contact Kathy Carrier at 447-4979.

Rob asked how the election for Ray Burton's vacant seat of Governor's Executive Council will be handled. Kathy replied a primary will be held on January 21, 2014 if there is more than one candidate from a party affiliation.

JR\_\_\_\_  
KR\_\_\_\_  
RN\_\_\_\_

Steve added the general election will be held March 11, 2014. Kathy said if there is only one candidate from each party, the primary will become the general election. Steve said there are already two candidates from one party that have filed their declaration of candidacy.

Tara thought two boulders could be placed at the entrance of the Hammond Cemetery to prevent traffic from entering the cemetery. Kelly said that would be fine for a temporary fix but Albany is far behind in complying with state law that says all cemeteries shall be gated and fenced.

Rob would like Kathy to follow up on the 25% shared program that Mike had mentioned.

Tara told the Board that Chase Hill Rd. had been graded but the ditches were not cleaned out and there were piles of debris over the bankings and pushing onto people's property. Tara feels it needs to be cleaned up.

At 4:25 p.m., Jack made a motion to adjourn, Rob seconded the motion and all were in favor.

Respectfully Submitted,

Kathleen Vizard  
Town Administrator