

At 6:20 pm Chairman Hunter called the meeting to order in the basement meeting room of the Fremont Town Hall. Present were Selectmen Brett Hunter and Greta St Germain and Town Administrator Heidi Carlson.

Selectmen reviewed the mail folder and bills paid for the week, as well as invoices to be paid next week.

OLD BUSINESS

1. Selectmen reviewed the minutes for 18 August 2011. Motion was made by St Germain to approve them as amended. Hunter seconded and the vote was unanimously approved 2-0.

At 6:43 pm a phone call was placed to Selectman Scribner, recovering at home from day surgery today. The call was made to discuss the Lennon Deed Waiver and Payment Plan. Hunter recused himself from the decision-making and St Germain and Scribner reviewed the plan. Scribner was amenable and the Payment Arrangement put together by Kathy Arsenault was read aloud. The plan calls for Lennon to make a \$6,000 payment by September 1, 2011; and a \$2,000 monthly payment on the first of each month following.

St Germain signed the agreement and Scribner will sign it in the coming days.

Hunter returned to participate in the meeting.

At 6:51 pm the phone call ended and Chief Butler met with the Board. He indicated his budget is done.

Butler said that the Fire and EMS departments had been joined a few years ago and at that time, there was a melding of two types of portable radios. He said the former Fremont Rescue initially purchased ICOM's and the Fire had Motorola's. He said that Raymond is interested in purchasing all ICOM radios so that Fremont could convert to all Motorola radios. He said that this was allowable within the State's parameters of the radio grant. He said they were looking to take money out of the Capital Reserve Fund for the balance of money needed. Hunter said there was approximately \$18,000 in the Radio Capital Reserve Fund. Butler said the current estimate to buy replacement radios is currently estimated at \$8,000 to \$10,000. Estimates are still pending for the replacement Motorola's and Butler said that some of the Department's operating budget can also be used for the purchase.

Selectmen said that they would consider it further once the Department has the three pending estimates and knows the overall picture of the costs and what they will get for the ICOM portable radios.

2. Steve Tomasz is reporting that he is starting on the North Road stonewall on August 31 or September 1 and that information was forwarded to the Miller's by email with a confirmation of receipt.

3. Carlson provided information to update the Board further on other tax deed matters; and those that will be handled by banks.

4. The vendor that provided the lowest oil price bid vendor did not provide for downside pricing as required by the RFP. Selectmen asked for Jeanne Nygren to follow-up with that vendor to see if they could update their information.

5. Selectmen reviewed DRA Form CD-57 for transfer of the Clover Court land (03-167.004) to the Walter F Dickson Jr Revocable Trust of 1998. The Board did the transaction in July by the Board and the Raymond parcel transferred at the same time. The Donahue, Tucker, Ciandella Law Firm had prepared the paperwork and it was signed by the Board.

Jerry Thayer came into the meeting at 7:20 pm.

6. Selectmen reviewed a revised agreement for payment of Land Use Change taxes by Lewis Builders. This agreement had been sent to the Town's Assessor and Attorney for review. Attorney Ryan had made some changes, which were acceptable to the Board. The Board asked Carlson to send the updated Current Use payment agreement to Attorney Levine for Lewis Builders to review and sign. The Board also asked for Lewis Builders to pay for the Town's legal review, as they had requested to do it via payment arrangement in this manner.

At 7:25 pm Attorney John Ratigan and Jeffrey Sheehy came into the meeting.

OLD BUSINESS CONTINUED

7. Carlson reported that the Treasurer would return to regular work at the Town Office on Tuesday August 30th pending her flight arrival after the storm. The Board asked for the July and August reports to be completed as soon as possible.

RANGEWAY PUBLIC HEARING CONTINUATION

At 7:30 pm Selectmen re-opened a Public Hearing to discuss the Rangeway Petition of Matthew Jensen. Present were Selectmen Hunter and St Germain; Heidi Carlson, Petitioner Matthew Jensen, Abutters Jerry Thayer, Jeffrey Sheehy of Beede Hill Associates, and Attorney John Ratigan representing abutter Sheila Lyford. It is noted for the record that the hearing began on July 21, 2011 and had been recessed to tonight.

Jerry Thayer stated that he had found the original proprietor's records for the Town of Fremont. He indicated that in these records, as early as the early 1800's and perhaps earlier, it was being used as a traveled way. He indicated he had done additional research and presented a map of the area from old deeds showing the Jensen and Lyford properties. He presented several documents of the old proprietor's records.

He provided additional proprietor transcribed records of old names in the deeds and descriptions of rangeways. He said he also found descriptions describing the rangeways as streets and roads. He outlined the description of "sunken cassie" on Beede Hill Road and a number of transactions (1771) opening a section of Beede Hill Road at the Thomas Chase (Randolph) house and road layouts in 1769; and a few months later opened by the Town.

He said the proprietor records make it clear that the Town did not want to spend any money on the road. In Fremont, they stayed on the rangeways and only came off when they had to.

Thayer reviewed significant additional history of the information and the Proprietor's Records and pointed out that these documents indicate the use of the roadways.

At 7:50 pm Dennis Howland came into the meeting.

Thayer further stated that there may be underlying private easement rights over this, but this particular area has deeds where it can demonstrate the history and use. He said they are clear and unambiguous, referencing the Gill v Garato case.

Thayer said this is a rangeway with a town public highway overlaying it.

Hunter read from sections of Attorney John Ryan's letter to the Board, for the benefit of those present regarding information researched on the status and of rangeways in general. Specifically he noted that the "Petition seeks to layout a roadway for private benefit accruing only to the Petitioner. The NH Supreme Court has held that such a layout decision first must be based on a balancing of the public interest in the layout with the right of landowners affected by it. In other words, is there a public need or urgency for the layout such that the private benefit is simply incidental?"

Further quoted by Attorney Ryan is that "in 1942, the NH Legislature acted to discontinue any rights the Town had in the dedicated but unaccepted easement ending any rights in the rangeway."

Thayer stated that Matthew Jensen has no legal access to his particular property other than to trespass across the property of another. Thayer said it is obvious from the title work that his piece was not landlocked.

He described that it would not be unreasonable for Jensen to upgrade the section of Shirkin Road to get to his property. He said that is what Site Plan Review is for. Road upgrades would be necessary for other improvements to take place.

Selectmen discussed the Board's finding were in consideration of the public and private interests involved and also the advice offered by the Town's attorney.

Thayer said that he did not bring in the title research in initially, until he got the proprietor records; the old deeds make it clear that it is a road and was used for a period of years.

Selectmen said they were in agreement of the fact that this is a financial burden to the Town and it will only benefit one person at this point. Jensen asked about the commercial zoning and Thayer said that is irrelevant to this discussion.

Thayer cautioned the Board that disallowing the petition at this point would be a decision to close off access completely to his property and landlocking Matthew Jensen's parcel.

Attorney John Ratigan then came forward and said he was representing abutter Sheila Lyford. He said given the topography, it is hard to believe anyone could build a road there, and the idea of getting horses and carts over that is not realistic. He suggested it was laid out in a gentlemen's drawing room, to put lines on paper before making grants of property. He said some do in Rockingham County but the topography of that particular location suggests it did not physically get laid out.

Ratigan said the Board must act on the petition. Once opened and upgraded, it has to be maintained as a town roadway right away, which would not work from the current connection that is Shirkin Road.

Ratigan said that a claim has been made that this is a Class VI road and the Selectmen have absolute discretion about whether or not to upgrade it. If it is a Class VI Road we are not laying out anything, as it is an existing Class VI highway. A public way would then already exist; and the Selectmen have discretion to upgrade it.

If the petitioner is unsatisfied with the Board's decision, they can appeal within 30 days to the Superior Court. Ratigan stated that he believes there is a private right of access; as Mr Jensen has gotten access via the Hard Rock Development property in the past. The law discourages landlocking of parcels and there will be other ways to do it.

Thayer offered one comment that if the deed work is there, the Board will find out it is going to be a road, citing a new case, Greencrow v New Ipswich. The road as it exists is not passable.

Thayer said he owns a lot of parcels and does not want to be landlocked.

St Germain said that Board represents the whole town and are guided by the Town's Attorney on issues of law that are difficult to decide.

The Board felt that they needed to act on what is in front of them and if the petitioner wanted to bring forth something else they could do that.

Attorney Ratigan's letter of July 20, 2011 notes the term "occasion" involves the principle of "public purpose." Attorney Ryan's letter states that the Selectmen must consider three balancing factors:

1. The public convenience and public necessity for the highway.
2. The financial burden to be imposed upon the municipalities taxpayers for construction and maintenance.
3. The rights of owners, if any, whose land would have to be taken.

Given all of the testimony and statutory information presented, St Germain moved to disprove the Petition for highway layout submitted by Matthew Jensen. Hunter seconded. The vote was unanimous to disprove the petition 2-0. Motion was then made by St Germain at 8:25 pm to close the public hearing. Hunter seconded and the vote was unanimously approved 2-0.

Thayer, Sheehy, Jensen, and Ratigan left the meeting at 8:25 pm.

Dennis Howland came forward and introduced himself to the Board as the Chairman of the Open Space Committee. He presented a photo slide show of information about trails and signage of the Oak Ridge Conservation Land. He presented the 24 x 36 white on brown recreation signs

He provided updates on the Trail System being built within the Town Forests and how they would like to consider the pros and cons of off-premise sign installation to advertise the Town Forest and walking trails. He has spoken with the Town's Road Agent about signs on Town roads, and was provided information to talk to the Foreman at the Division 6 Maintenance Shed (NH DOT) in Kingston.

Selectmen said he should go ahead and speak with the other authorities, and they would further consider what might be a good way to get the word to town residents about the resources and opportunities in the Town Forests.

Howland said that the third Saturday in October there would be a foliage hike. This is currently being advertised on the Town's website and in the Newsletter.

Howland left the meeting at 9:00 pm.

OLD BUSINESS CONTINUED

8. Selectmen discussed filling the last paragraph of space in the September Newsletter with an article on the establishment of a Cable Access Management Committee and worked on some language for an article. The purpose would be to research the options available for cable equipment for future live and taped broadcast of public meetings and events. Interested residents are welcomed to submit a letter to the Board no later than the end of November, and the sooner the better.

9. Carlson provided some follow-up information on open space land and the potential financing options. A final version of the public hearing notice was presented, and further edited for publication. The Hearing is scheduled for September 29, 2011 at 7:30 pm at the Fremont Town Hall.

10. The Board responded to a request for information from Keith Stanton and signed a return letter. His request for information on a pending court matter was provided. The court case is still pending.

11. Selectmen reviewed information on abatements granted to date on 2010 property taxes. This included \$5,295.11 that has been refunded to taxpayers for abatements granted, and the Assessor's spreadsheet on updated values and total changes based on 2010 property tax abatements. The total value change is \$1,256,100 (reduction), which is approximately 0.2% of the overall assessed valuation of the Town.

12. Selectmen reconsidered the Assessor's recommendation and additional information obtained from Assessor Scott marsh for the abatement on parcel 03-037.001.

River Bank 03-037.001 Spaulding Road

Assessors Recommendation: The subject consists of four partial completed retail/office condominiums with apartments above in a single building as well as two un-built units of the same building and three un-built units in a separate building. Property was listed as a single building; however upon review it was found to actually be 9 units out of a 10-unit condominium project. Applicant has provided an appraisal that was completed for other purposes which was reviewed. My associate inspected the property and some discrepancies were noted. Based on our review of all of the information with consideration for subject's incomplete status and current status and current conditions, adjustments are felt to be appropriate. After adjustments, assessment is reduced \$525,800 from \$1,330,600 to \$806,400 and it is recommended that an abatement in the amount of \$13,959.99 plus any applicable interest be granted.

Carlson discussed additional information received from Marsh addressing the building's condition, conversion to a condominium assessment, and the overall methodology value. With the additional information, motion was made by St Germain to accept the Assessor's recommendation and approve the abatement for parcel 03-037.001. Hunter seconded and the vote was unanimously approved 2-0.

NEW BUSINESS

1. Selectmen reviewed the accounts payable manifest \$12,533.25 for the current week dated 26 August 2011. Motion was made to approve the manifest by St Germain and seconded by Hunter. The vote was unanimously approved 2-0.

2. Selectmen reviewed a lengthy grant proposal format from Pat deBeer for land acquisition and discussed the items needed for the grant. The Board was not in a position to offer a letter regarding hazardous waste, other than to say "not to our knowledge." There was discussion about whether the Town could support the administrative requirements of the grant and Carlson will contact Pat deBeer to discuss it further.

3. Selectmen further discussed value of the town for completion of the State Form MS-1. The Assessor had been in the office today installing the new Current Use per acre values just put out by the State. This results in over 200 new value cards that have to be entered into the tax billing system prior to the final assessment numbers. The Board decided that they would sign the form at the meeting next week.

4. St Germain moved to accept the resignation of Philip Eldridge as a part-time seasonal cemetery laborer, which was received on Wednesday with his final timesheet. Hunter seconded and the vote was unanimously approved 2-0. Selectmen discussed hiring another part-time worker to close out this season. There had been one additional application submitted just following Eldridge's hiring, which has been held on file. The Board agreed to pursue this applicant to determine if he is still interested. Carlson had spoken individually with the Cemetery Trustees to keep them updated, and they were amendable to this plan as well.

5. Copies of budgets submitted this week were distributed to Board members. A package will also go out to the Budget Committee tomorrow to include the budgets and the September training session offered by NH LGC. For each of these, current expenditures were also presented on the excel budget worksheet.

4140 Executive – Town Clerk
4150 Financial Administration - Tax Collector
4151 Financial Administration – Treasurer
4240 Building Inspection
4312 Highway Department
4313 Bridges
4316 Street Lighting

At 10:00 pm motion was made by St Germain to enter non-public session pursuant to NH RSA 91-A: 3 II (c) and (e) to discuss a tax hardship request and a pending legal matter. The roll call vote was unanimously approved 2-0.

At 10:25 pm motion was made by Hunter and seconded by St Germain to return to public session. The roll call vote was unanimously approved 2-0.

Motion was made by St Germain to seal the minutes of the non-public session until such time as release would not be detrimental to settling of the legal case discussed. Hunter seconded and the vote was unanimously approved 2-0.

NEXT WEEK

The next regular Board meeting will be held on Thursday September 1, 2011.

With no further business to come before the Board, motion was made by Hunter and seconded by St Germain to adjourn the meeting at 10:30 pm. The vote was unanimously approved 2-0.

Respectfully submitted,

Heidi Carlson
Town Administrator