

Submitted By:
JMY

TOWN OF PHIPPSBURG
SELECTMEN'S MEETING

Approved By:

April 9, 2003

Meeting called to order at 7:00 p.m. with Selectmen Rice, Wells and Douglass present.

1. Review and Sign:

- Accounts payable, payroll warrants and minutes
- Audit contract

All items reviewed and signed

2. Meetings and Hearings:

- Meet with Josh Bate, Road Commissioner, CEO and Fire Chief concerning Sam Day Hill Road repairs/maintenance.

This meeting was held with over 30 citizens and officials in attendance as well as the Town Attorney. Selectman Rice opened the meeting by explaining the conduct that was expected of all those in attendance. Mr. Bate requested that the Selectmen vote to allow him to read his letter of complaint (uninterrupted) concerning the work done on Sam Day Hill Road and also to go into executive session concerning issues with the Jim Totman (Fire Chief) and Mike Young (Town Administrator.) No motion made or vote taken. Selectman Douglass told him to read his letter if he wanted to. Mr. Bate read a 3 minute letter which accused the Town of: (1) violating the State Statute of Fraud; (2) not putting a road project out to bid; (3) failure to use a registered Engineer to plan any project costing in excess of \$100,000.00; (4) DEP violations (lack of erosion control and cutting in a Resource Protection area); (5) traveling on Town posted roads (requirement for a surety bond) and (6) lack of proper administrative permission to perform the work.

The Selectmen explained to Mr. Bate that the removal of trees was done on Sam Day Hill Road to open it up to sunlight because it was a public safety hazard due to extreme icing (a propane truck had actually slid backwards into a tree.) The Road Commissioner had applied hay to the site for erosion control and had gotten permission from the abutting landowners to remove trees on their property. The Selectmen determined that the accusations were unfounded because: (1) according to the Town Attorney, the Statue of Frauds that Mr. Bates was referring to was a remedy for contracts in writing and did not apply to this case; (2) a warrant article at the 1994 Town Meeting to require projects greater then \$5,000.00 to be put out to bid failed, also the Road Crew are employees of the Town, not contractors; (3) the minimal cost of the maintenance (tree removal) was much less then the \$100,000.00 ceiling requiring a registered engineer; (4) straw was used for erosion control (a DEP representative will visit the site on April 24th and discuss any violations of the State setback requirements for tree removal in a Resource Protection area and burning within that area); (5) the "Posted Road Ordinance" exempts vehicles that are authorized by the town perform road maintenance and there is no requirement for a surety bond; and (6) although not noted in prior Selectmen's meeting minutes, the Road Commissioner had discussed tree removal maintenance along Sam Day Hill Road with them at an earlier meeting.

Once these conclusions were reached, Mr. Bate requested an Executive Session

with the Board of Selectmen to discuss concerns related to the Fire Chief and Town Administrator. The Town Attorney, Richard Hornbeck, gave the audience an overview of the guidelines for an Executive Session. The Fire Chief and Town Administrator both requested that any allegations and/or complaints against them be discussed in open forum rather than Executive Session. This was followed up with a written request from the T/A. Mr. Bate then departed the building without lodging his complaints. No Executive Session was held.

Selectmen Wells inquired about the procedure to revoke Mr. Bate's appointment to the Planning Board based on bias as evidenced by Mr. Bate's remarks and perceived threats contained in the e-mails that he sent to the Town Office. A copy of the e-mails was given to the Town Attorney for review. No further action taken.

3. Discuss the following issues

- Response to Hannaford construction/Richardson Street

The Fire Chief was not concerned with the possibility of Richardson Street in Bath being blocked off. The ambulance uses several routes to get to Midcoast Hospital. No further action taken.

- Appoint members for the Library Options Committee

Selectmen voted to appoint the following citizens to the Committee: Inger Cesh, Lynn Gilliam, Ken McPherson, Anna Varian, Kathy Coffin and Sheila McKenney (alternate.)

- Response to Helen Wirth concerning proposed construction on Popham Road
Ms. Wirth sent a letter, with attachments, recommending that the section of Popham Road from the Parker Head/Popham corner to Tom Percy's not be rebuilt. Selectmen discussed this issue with the Fire Chief and Road Commissioner and it was determined that because of public safety (ie. poor line of sight and lack of shoulder) we would continue with the plans. This is a BTIP cost share with the State (Minor Collector Road.) T/A will prepare a response.

- Tax reform handout for Town Meeting

T/A will make copies for the Town Meeting.

- Center Pond causeway repair plans

The Road Commissioner briefed the Selectmen on his meeting with Les Smith, Road Committee Chair, and Ed Coffin from Coffin Engineering. They reviewed and approved the final draft. The final plans will be forwarded to the Town as soon as possible.

- Acceptance of donated copier for Recreation Committee

Selectmen voted unanimously to accept the donation of a copier from Bath Savings Bank to the Recreation Commission.

4. Review the following items

- Letter from DOT concerning Les Smith's appointment to the RTAC board
- Legislative document from State Senator Mayo concerning public boat launches
- Legislative Bulletin
- Chamber Connections
- Draft report from Committee on Tax reform

All items reviewed. No action taken.

5. Discuss attendance at the following meetings, courses, and seminars

- None

6. Miscellaneous

- **The Posted Roads Ordinance was discussed and clarified. It will be reviewed for amendments next year, prior to posting of the roads.**
- **T/A reported that the School “raise” for Town Meeting would only be a 1.23% increase over last year.**
- **Dan Coffin, School Board Chairman, briefed the Selectmen on LD1344 which allows the teachers union to have more control over education policy. The School Board is not in favor of this.**
- **The Codes Enforcement Officer informed the Selectmen that a property owner on Young’s Lane was in violation of setback requirements from a cemetery. He will meet with the property owner.**
- **Selectmen reviewed a letter to be signed by the abutting property owners to Sam Day Hill Road who had trees removed by the Road Crew. This letter reinforces the verbal agreement allowing the trees to be cut and also insures the property owners that they will not be held responsible for violations of the Town’s Ordinances for the cutting.**
- **Selectmen Wells reported that an abutter to Purse Line Bait was seeking legal action to prohibit the noise that occurs from operation of the facility.**
- **Les Smith gave an overview of the RTAC meeting that he attended and discussed the 20-year plan.**

Adjourned at 9:08 p.m.