

BOARD OF SELECTMEN

OCTOBER 8, 2013

MEMORIAL BUILDING

10:00 A.M.

The following are to be considered draft minutes only until approved by the Board at their next meeting.

Selectmen present: Don Hill, Chairman; Leigh Callaway and George McCusker.

Others present: Tom Duling and Bill Huntoon.

Meeting called to order at 10:00 a.m.

Don moved to renew service contract for Generac generator for next year. Motion seconded by George and unanimously approved. Contract signed.

Noted recent check runs had some errors. Usually two selectmen review the manifest each week. If errors are found should be noted on the manifest.

Don reported at the Joint Board of Selectmen's meeting discussion included a School Resource Officer. The school is supporting the need for a resource officer. The question has been put out to vote several times and has not passed. The School Board and the Municipal Budget Committee and many towns feel there is a need. Leigh stated the school board has said if the selectmen in the various towns approve, a resource office will be included in the school budget and not put on the warrant this year.

Don reported there is an emergency management preparedness tabletop drill Wednesday, June 16th at 7:00 p.m.

Tax deeding: Cynthia Anderson, Tax Collector and Shawn Tanguay, Attorney for the town present. Don announced that at some point the conversation would be closed to the public for legal counsel but at this point the meeting remained open to the public.

Cynthia reported there are 5 property owners with 2010 taxes owed that have been noticed and subject to tax deeding.

Cynthia reported she recently learned that at the time the tax collector gives the Selectmen the list of properties that are being noticed for tax deeding, the Selectmen should take that list and do any "homework" before the tax deeding deadline. That way the Selectmen have done their research and will be ready to make a decision whether to accept or decline the deed on the tax deeding date instead of doing the research after that date. If a deed is declined at the time, the Selectmen do have the right to deed the property at any further time.

Status of 651 Hogg Hill Road property. Shawn Tanguay reported he has drafted the Quitclaim Deed back to Mr. Collins. Shawn stated the mortgage company should be noticed that the deed has gone back to Mr. Collins. By "operation of law" the deed must go back to Mr. Collins as

the property was taken from him. The mortgage company determines if they wish to reactive the mortgage or other actions.

Shawn reported there is a new provision under 91:A, that allows Selectmen to come to the town office to sign documents without noticing a meeting. It is not considered a meeting, though there can be no further discussions.

Motion made by George to accept and execute the Quitclaim deed to Barry Collins. Motion seconded by Leigh and unanimously approved. The deed will be signed, notarized, and recorded at the registry.

Leigh extended "kudos" to Cynthia for her persistence in this matter.

Lee property: Last payment was made in August 2011. There are two separate deeds for this, one for the land and one for the mobile home. Both have 2010 unpaid taxes and are subject to deeding. Taxes on the mobile home have been delinquent since 2005, taxes on the land have been delinquent since 2009. Selectmen questioned whether the deeds needed to remain separate or could they be merged into one. They were concerned with liability issues if they were to take on or the other but not both. Shawn recommended they take both and then combine the deeds as one. The board addressed concerns with the 3 year right of the former owner to repurchase and what would happen if the owner exercised the right to repurchase one but not the other. Shawn stated that RSA 80 allows encumbrance of the two together and the town could submit a voluntary merger through the planning board, as well as a Declaration of Voluntary Merger to establish a record that the properties are merged and run together. The town can exercise their right to take both properties today and if they decide to resell, a sale date needs to be determined at least 90 days out, with a 30 day notice to the former owner(s). If the former owner gives notice of intent to repurchase, they need to come up with the money within 15 days or the property proceeds to sale. The Selectmen declared that they do not want to undertake the removal of the trailer and will proceed with merging the two deeds.

Lefebvre: Board shared concerns with DES fines due to wetland/environmental violations. The town needs to be sure they are not putting themselves at risk or risk to a possible next owner. Shawn stated tax deeds generally wipe out other liens. He has found it true with federal liens, but this is still a gray area in that it is not clarified by State law in terms of State liens. He has been successful in coordinating with the State agency, (most of the time DHHS liens) to make the town a priority. He recommends that is how the town proceeds with this one. It would be worthwhile to look at the violations and suggests contacting the state agency to find out where this stands. He stated the Selectmen could vote to accept the deed, subject to no further liability as a condition on the acceptance of the deed. Tom Duling stated that he was at the property three or four weeks ago and has not seen any changes. Shawn suggested options to reach out to DES for potential remediation, vote to take the deed with conditions, or wait on the deeding and deed at a later time.

Cynthia Anderson questioned what would happen if the owner came in and wanted to pay his back taxes now that the deeding deadline is here. Shawn Tanguay replied the property is still in the redemption phase. He can pay the back taxes with interest to avoid a tax deed. There is still the ability to redeem back taxes until such time as a deed is actually recorded at the registry of deeds. Once the tax deed is taken all the other charges and penalties get assessed.

Pitts: Cynthia reported the last payment on 2010 taxes was September 30th. He is always making payments but they never quite seem to get him ahead. There is no mortgage on the property and the last notice mailed to him was unclaimed. It appears he is no longer in the area, and didn't leave a forwarding address.

Rowell: Last payment was in March 2013. The property is 1.4 acres and is the only residential property on the list.

Lee Property- Old Croydon Road: Selectmen further discussed options. The oldest property on the list is the Lee property. The owner has indicated they were motivated to sell. The Selectmen were optimistic the property would be sold. They were concerned with having to remove the mobile home. The Selectmen agreed the two deeds should be merged into one. Shawn will draft the language to merge. He was asked to draft the deed for this parcel as well since there are two subject properties being deeded. Shawn stated that a Planning Board Voluntary Merger is not required in this case, but would be an extra step to ensure the validity of the merger and provide public information of record.

Don moved to write the deed to the Lee property and trailer and merge the two deeds, with intent to execute the deed and declaration of merger by signatures of the Board on Tuesday, October 15th. In addition a voluntary merger will be submitted to the Planning Board on October 17th and recorded at the registry of deeds. Motion seconded by Leigh Callaway and unanimously approved.

DLD Development- Eastman: Three lots eligible for deeding. Cynthia noted there are Eastman Community liens on these properties. The Town trumps the ECA liens. Leigh will put together some information about these and other Eastman lots for possible resale. Motion by Leigh Callaway to deed the three lots owned by DLD Development, seconded by Don Hill and unanimously approved.

Lefebvre – Shore drive. Selectmen agree they need to do further research about the existing liabilities and determine potential for mitigation. Motion made by Don not to “pull the trigger” now, but with some further investigation, reserve the right to deed at a later date. Motion seconded by Leigh and unanimously approved.

Warren Pitts - Shad Hill Road uninhabited 30 acre parcel. No mortgage, no liabilities. Selectmen felt there was no legal authority not to tax deed this property at this time. Motion by George McCusker to deed this property, seconded by Leigh Callaway and unanimously approved.

(Addendum/discovery: Following this meeting research of the payment records for this property, it was clear several payments had been received from various addresses in Massachusetts. Counsel Tanguay advised there needed to be more of an attempt made to locate this owner to show due diligence. Without due diligence, there is potential a tax deed could be invalidated if challenged. He recommended trying to locate the property owner and sending another 30 day notice.)

Clint Rowell – Shad Hill Road: George reported no payment on the 2010 balance has been made in some time. Review of the laws regarding tax deeding, financial hardship is not reason enough to not take the property. Don noted with past tax deeding payment plans were largely to pay off the balance subject to lien. Every case must consistently be treated the same, without special arrangement for one and not others. Leigh stated he has looked through the guidelines offered by Attorney Bernie Waugh, and the town has no legal standing to treat parties differently. There is nothing personal in this. The Selectmen acknowledged this is the only property up for deeding that is inhabited.

Shawn cautioned that the Town could be required to offer assistance to any property owner that must relocate due to tax deeding. The welfare guidelines and requirements of the town would have to be considered as that could create other issues that could be a liability if the town were to take an inhabited property.

After discussing the issue at length, the Selectmen felt they needed 7-10 days to do some further research. In the meantime, they agreed a courtesy chat with Mr. Rowell informing him of the 7-10 day window of opportunity for him to pay the amount due while they explore potential liability to the town. Motion made by Leigh to allow a 7-10 day window before deeding in the best interest of the town, to review potential liabilities to see if it is in the best interest of the town. Motion seconded by Don Hill and unanimously approved. George will speak to Clint.

Leigh will speak to Laura Patten about assistance guidelines. He stressed that what the Board is doing is reviewing welfare guidelines to determine parameters of welfare assistance to see if there is a situation that will expose the town to future liabilities and costs if someone were to be extricated from their home. This could apply to any property on a deeding list.

The Board will review the issue again at their next meeting on October 14th.

The meeting adjourned at 12:30 p.m.

Submitted by,

Janet Roberts