

**Town of Auburn
Board of Selectmen
June 29, 2020
Minutes**

7:00 PM

Selectmen Present: Keith Leclair, Todd Bedard and Michael Rolfe

Others Present: Mike DiPietro, Town Counsel Stephen Bennett, Attorney Patricia Panciocco, Gary Gramatikas, Pamela Gramatikas, Ed Haddad, Sue Bunnell, Eric Mitchell, Police Chief Ray Pelton, Parks & Recreation Coordinator Amy LaChance and Nancy Hoijer, Recording Secretary

Call to Order – Pledge of Allegiance

Mr. Leclair called the meeting to order at 7:00 PM and led the Pledge of Allegiance.

Approval of Payroll Manifest for the Week of June 22, 2020 - \$55,013.17

Mr. Bedard motioned to approve the Payroll Manifest for the week of June 22, 2020 in the amount of \$55,013.17. Mr. Rolfe seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Approval of Accounts Payable Manifest for the Week of June 22, 2020 - \$13,918.49

Mr. Bedard motioned to approve the Accounts Payable Manifest for the week of June 22, 2020 in the amount of \$13,918.49. Mr. Leclair seconded the motion. A vote was taken, Mr. Leclair – aye, Mr. Bedard – aye, and Mr. Rolfe abstained, the motion passed 2-0-1.

Approval of Accounts Payable Manifest for the Week of June 29, 2020 - \$21,095

Mr. Bedard motioned to approve the Accounts Payable Manifest for the week of June 29, 2020 in the amount of \$21,095. Mr. Leclair seconded the motion. A vote was taken Mr. Leclair – aye, Mr. Bedard – aye and Mr. Rolfe abstained. The motion passed 2-0-1.

Approval of Accounts Payable Manifest for the Week of June 29, 2020 - \$1,651,866.36

Mr. Bedard motioned to approve the Accounts Payable Manifest for the week of June 29, 2020 in the amount of \$1,651,866.36. Mr. Rolfe seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Appointments with the Board

Gary Gramatikas & Pamela Gramatikas – 20 Appletree Road – Restoration of Involuntarily Merged Lots

Eric Mitchell presented the application for restoration of involuntarily merged lots on behalf of the Gramatikases. Mr. Mitchell indicated two of the lots were sold to the Gramatikases in 1977 by Arthur & Marguerite Gramatikas, while another two lots were purchased in 1985 (Lots 101 and 103) by Arthur & Marguerite Gramatikas and stayed in their Estate until recently when the property was transferred by the remaining heirs. They contend the parcels were merged involuntarily.

Attorney Panciocco indicated Lots 102 and 104 were owned by one family and the other two were owned by the estate. She said those lots cannot be merged when they are not owned by the same owner. She felt a second reason it is wrong is there is no Town ordinance that authorizes it. And the last reason is there is no statute in New Hampshire to merge lots. She said the assessor has no authority under New Hampshire law to merge lots, no state ordinance or common title. A taking without a hearing is a basic Constitutional principle. She further did not agree putting a shed there rises to the level of merger by conduct.

Attorney Bennett indicated there were four original lots of approximately one-half acres in size conveyed to the Gramatikases parents. Lots 102 and 104 were one transfer and that is where the house and garage are located. Lots 101 and 103 are the two back lots. He indicated both original deeds mention Lots 102, 104, 101 and 103, but make the transfer as a single tract, describing the perimeter in the physical description. The property had corrected deeds filed this year in January as "Corrective Quitclaim Deeds." These deeds correct the transfer dated September 9, 1977 which deed omitted Lot 101 and 103. The deed stated it was not a contractual transfer. There was no conveyance from the estate/heirs to the Gramatikases or it would be subject to tax stamps. There were no two separate estates as suggested. All were owned by the Gramatikases.

Attorney Bennett referenced *Roberts v. Windham* which had the same scenario, combined lots, same address, all taxed the same. Administrative mergers happened by officials with one owner. There was no requirement for there to be an ordinance allowing the merger. He indicated RSA 674:39aa was put in place because of this circumstance where the Town is treating separate lots as one parcel. He said a review of four applications submitted by the Gramatikases since 1977 suggests all four lots were being used as one. The initial building permit application for the house says two acres. Each individual lot is half an acre. The garage over line Lots 102 and 104 – 2.25 acres (all four together). The shed in 2005 – size 2.38 acres is all four lots combined. Septic field shows as one parcel. The shed permit partially over Lot 103. The site walk showed two sheds on the property. One as of Saturday was pulled off the property was clearly on Lot 103. The mowed area is significant. The owner of Lot 105 is here today. Lot 101 was not developed at all. The courts look at how people use property as "merger by conduct."

Attorney Panciocco indicated the *Roberts* case were cottages on the waterfront with a multi-use bunkhouse not accessible except through each other. Something more permanent than a shed and a bit of lawn. Do not know who is mowing the lawn.

Mr. Mitchell noted the Gramatikases relied on the tax map when they filled out their permits and it said two acres. The lots were not developed. The anti-merger statute sunsets in 2021. There have been too many circumstances to correct mistakes, and he agreed the lots were not in common ownership.

Mr. Leclair opened the hearing to the public for comments and questions at 7:25 PM.

Eric Haddad of 96 Hunting (Lot 105) indicated he is a direct abutter. He looked at the lot lines, what there was on GIS and it was always shown as one lot. He relied upon what was around and what could be built. He does not want a big house immediately next to him. He had to get a variance to get a garage. The well is on the property line already.

Sue Bunnell of 80 Hunting Road noted she has concerns about houses going in close to her and asked who is mowing lawn abutting 105. Mrs. Gramatikis said they are mowing it, the kids play ball there.

Mr. Haddad indicated the Gramatikis had stuff there until last night, and they have burned wood there.

Attorney Bennett indicated the development is made up of pre-existing non-conforming lots which are buildable. That area is grandfathered. Ms. Bunnell noted a neighbor on Wilson's Crossing Road was told they could not. Mr. Leclair explained this neighborhood is grandfathered.

Mr. Haddad asked about the rule in RSA 674-39aa that the restoration not be deemed to cure so the development could go back to the old rules and if it meant they must stick to the current rules. Both attorneys reviewed the language of the statute.

Mr. Rolfe asked Mr. Mitchell about the well radius of 125.' Mr. Mitchell indicated an artesian well only needed 75.' Mr. Rolfe corrected a dug well is 125.' Mr. Mitchell noted the state looks at requirements. The minimum allowable is a two-bedroom. There is a formula for the well radius and the state allows for a document to be recorded by the owner indicating they cannot blame the neighbors. Mr. Leclair asked if it protected the neighbors as well? Mr. Mitchell noted the state does not care how far apart wells are. In open space developments they can be very close.

Mr. Haddad expressed concerns with his well if another home is built.

Attorney Panciocco indicated the local ordinance can be adopted to be less restrictive.

Mr. Bedard indicated he has not seen any evidence the lots were or were not merged voluntarily or involuntarily. What evidence points to voluntary or involuntary?

Attorney Panciocco indicated a voluntary merger would go before the Planning Board for approval and be recorded at the Registry of Deeds. The presumption is involuntary unless there is evidence that the owner voluntarily asked to be merged.

Attorney Bennett indicated if it were done voluntarily this statute would not apply. Administratively, the tax assessor, tax map makers or other officials merge without a formal proceeding. It is how the Town treated and how the owners treated the lots as separately or all as one. If using as part of property it is merging by conduct.

Attorney Panciocco noted the Building Inspector's zoning determination noted they were merged in 1980 and assigned a tax map and lot number. The memo indicated there was no record title of how the Gramatikases owned Lots 101 and 103, it was never transferred. If voluntary, the Building Inspector would have known it.

Mr. Rolfe indicated that happened in the 1980s and the owners sat on it for 20-30 years and paid taxes on one lot, not had separate tax bills.

Mr. Leclair indicated the Board would take it under advisement and asked to keep it on the agenda under Old Business for the next meeting in two weeks.

Ms. Bunnell indicated she had two trees close to the road that were dead and split. Mr. Leclair instructed her to contact Mr. Herman on the email provided at the webpage or call Road Agent Dross.

Town Response to COVID-19 and State of Emergency Declaration

General Update on Town Issues

Mr. Leclair noted he received the inventory he requested from Fire Chief Williams of PPE and there are about 440 N95 masks, 13 tubs of antibacterial wipes, 50 hand sanitizers, 1000 regular masks and 6000 gloves. Police Chief Pelton indicated they have gowns also.

Mr. Leclair noted the Town Offices have the doors locked and admit five people to the building at one time. Police Chief Pelton indicated a small uptick in cases, five new, mostly travel related.

New Business

Resignation of Alternate Library Trustee

Mr. Leclair announced the Board received the resignation of Alternate Library Trustee Brenda Beer.

Mr. Bedard motioned to accept the resignation of Brenda Beer as Alternate Library Trustee. Mr. Rolfe seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Mr. Leclair extended the Board's thanks to Mrs. Beer for her service and volunteerism for many years noting she also served as a Selectwoman and will still be around to help.

Highway Safety Committee Recommendations

- Additional Street Light Locations

Mr. DiPietro indicated an additional location was identified for a streetlight at the last Highway Safety Meeting. The intersection of Gardner Road and Bunker Hill Road where the kids have a bus stop early in the morning when it is dark. Mr. DiPietro indicated input would be appreciated where additional lights should or should not be.

Mr. DiPietro reviewed the SNHPC assessment done last year which looked at series accidents and fatalities and small projects that could be done inexpensively.

Mr. Leclair recommended this item stay on the agenda.

- "No Left Turn" Sign for Depot & Hooksett Roads Intersection

Mr. DiPietro summarized the Highway Safety Department discussions concerning the intersection of Depot Road & Hooksett Road which have been identified as a problem for many years. An alternate intersection has been proposed with Manchester Water Works and survey work was done several years ago. Putting in a "No Left Turn" sign would be a band aid in the meantime. Historically the sign has not lasted long.

Chief Pelton indicated the number of cars and bikes has increased since Covid and there have been reports of accidents in the past. Mr. Rolfe noted the sign would have to be ordered and will take care of that.

Mr. Bedard motioned to approve the installation of a “No Left Turn” sign at the intersection of Depot Road and Hooksett Road. Mr. Rolfe seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Mr. Rolfe indicated he would notify Road Agent Dross.

Power Washing of Town Hall

Mr. Leclair noted the proposal that was received to power wash the Town Hall and Library. The Board indicated the Town Hall was newly painted and did not need to be done.

Discussions with Manchester Water Works

Mr. Bedard indicated the intersection of Depot Road and Hooksett Road and other items need to be discussed with Manchester Water Works and recommended having a workshop meeting to coordinate the Town's thinking. This should be followed by scheduling a time to meet with Manchester Water Works. Mr. Leclair explained to Mr. Rolfe how former Selectmen were brought in to review the PILOT Agreement with the Board a year or so ago, and that there are issues concerning the cemetery, the school, land swaps and other issues which need to be discussed and finalized. Mr. Leclair will let Mr. Herman know to keep this on the agenda.

Design of Griffin Mill Bridge

Mr. Rolfe indicated the status was to first do legal work and the funding mechanism was for next year. Mr. Leclair recommended keeping this on the agenda under old business.

Old Business

Request to Cut Tree Limbs on Town Property

Mr. Rolfe indicated he spoke with the homeowner and recommended she could trim the overhanging branches, but not remove the trees which he observed to be healthy. Mr. Rolfe recommended having Mr. Herman send a letter and note if the homeowner does the work it is at her own risk.

Report/Comments of Ex-Officio Board Representatives

Other Business

Mr. Rolfe indicated the Sanborn property has been taken care of. The surveyors staked the property and the boulders were set on the line and the dirt was moved.

Mr. Leclair noted on July 6 the barriers will be moved from Morgan Drive as will at least half the no parking signs. The new signs have been ordered and hopefully will be installed at the same time.

Next Meetings/Events

Monday, July 13, 2020 Board of Selectmen's Meeting – 7:00 PM

Monday, July 27, 2020 – Board of Selectmen's Meeting – 7:00 PM

Minutes

- June 15, 2020 Workshop Meeting

Mr. Bedard motioned to approve the minutes of the June 15, 2020 Workshop Meeting. Mr. Rolfe seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

- June 15, 2020 Public Meeting

Mr. Bedard motioned to approve the minutes of the June 15, 2020 Meeting. Mr. Rolfe seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Adjourn

Mr. Bedard motioned to adjourn the meeting at 8:12 PM. Mr. Rolfe seconded the motion. A vote was taken, all were in favor, the motion passed unanimously.

Respectfully submitted,

Nancy J. Hoijer,
Recording Secretary