

## BOARD OF SELECTMEN MEETING MINUTES

Meeting held August 8, 2017, at 6:01pm

**Board Members Present:** Matthew Puntin, James Consolati, Michael Curtin

**Community and Others Present:** Mark Curtin, Peter Shaffer, Elisabeth Goodman (Lawyer representing Cooper Creek), William Roche, Joseph Janis, Carol Schaeffer, Frayda B. Diamond, David Garlock, Reba Schechter, Ginger Elvin, Gail Bliefer, MMargo Schwartz, Maria Powdermaker, Lauria Puntin, Donald Puntin, Allan Joyner, Martha Joyner.

Mail and review of previous meeting minutes were read/approved at 5:30pm (open to public)

**Meeting Opened:** 6:01pm

### **Public Comment:**

Al Joyner came to inform the board that his daughter will be doing a perc test and taking action from there. His concern was being he is the Health Agent, he knows he cannot perform witness the perc test, however, he was wondering if it would be okay if his equipment was used to save money. The board approved unanimously and Selectman Puntin has agreed to witness the perc test as he is certified to do so.

Selectmen Puntin brought up possibly changing the meeting time back to 7pm as this is causing a conflict for Selectman Curtin as his livelihood is based upon daylight. The Select Board has agreed to discuss this at the September 12, 2017 meeting.

Selectman Consolati discussed how we have been looking for a new IT person/company since Arthur Dellea has resigned. He made a motion that we hire Mark Pezzottini whom is the IT professional for Mount Everett School. Mark Pezzottini recently came in to review what systems we have in place as well as go over our needs and he has given us a list of needs as well as what service he can provide. Selectman Consolati stated we could bring him in as a temporary employee and pay him via weekly payroll on an as needed/worked basis. So he would only receive a paycheck when he performs a service for the town. There would be no monthly fee to the town. We would have to pay the upfront costs to purchase equipment needed so that we are up to date with encryption, security, back-up, etc. Selectman Consolati made a motion to hire Mark Pezzottini which was unanimous in favor of hiring him. There was no opposition from the audience.

### **Agenda:**

**Cooper Creek:** Peter Shaffer of 48 Cooper Creek opened the discussion, questioning why after three years of plowing and the residents of Cooper Creek doing everything that has been asked of them to maintain the road as well as extra work such as drainage that has not been asked of them, however, they would like to keep the road maintained and as nice as they can so that they can continue to receive this service. He also questioned how the Select Board could decline plowing when voters voted in favor of approving to appropriate funds to plow. He stated he ran the numbers and Cooper Creek and Lakeside pay roughly 25-30% of the real estate tax for Tyngham. He presented a letter to the Selectmen from Todd Briggs, a resident of Cooper Creek whom is a police officer, stating his concerns for responders in re to access as well as the time, money and work completed to be in compliance with the town so that Cooper Creek can be plowed.

Selectman Consolati explained that the town is not allowed to spend public funds on private roads unless approved by voters and adoption of law Chapter 40 section 6c. They would need to prove it to be a benefit to the town and that the road is open for public use.

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Elizabeth Goodman, lawyer representing Cooper Creek, feels the road is open to public use and their use is not impeded in any way. There are no signs saying private road, individuals are not asked to leave. She expressed curiosity if the Select Board thought because it was a dead-end if that is why they are stating no public use because as she sees it, a dead-end does not mean no public use. The Select Board asked Elizabeth Goodman if she had made contact with Jeremia Pollard (Tyringham' Town Council) which she said she had a brief email exchange and a phone conversation. She said what it came down to was that he would let the Select Board make the decision as to which direction they wanted to take.

David Garlock of 43 Cooper Creek said he understands there are legal and money concerns, but he wanted to drive home his feeling of being a resident of Tyringham. He feels included in the Town and attends town activities. He enjoys living here, but he would like the board to reconsider Cooper Creek under their interpretation of the law, to plow Cooper Creek.

Ginger Alvin of 23 Cooper Creek Road demonstrated public use as hikers utilizing the Appalachian Trail use Cooper Creek as a pass through to get to the Main Road. Just this past weekend ten hikers approached her for direction to the nearest store. They were instructed by the Appalachian Trail Bunk House attendant to take Cooper Creek, so this shows the public are allowed to and do use Cooper Creek. She questions the town's inclusiveness and fairness, if they will not plow Cooper Creek.

Joe Janis of 40 Lakeside Drive said use of the road is not always tied to invitation as boaters use it daily to turn their boats around and they are not Lakeside Drive residents, they are members of the public that are allowed to use their land to turn around.

Selectman Puntin stated he can see the argument both ways, but he some things are not perfectly clear and need further research. He did state that he does not feel that the Appalachian Trail directly abuts Cooper Creek which multiple residents disagreed with.

Marcia Powdermaker whom owns a home at 13 Cooper Creek as well as 13 Stonebridge Ways stated even when they are not staying at their home on Cooper Creek, that she walks down there and she sees people from Lee walking that road all the time. These are individuals who are not residents of Cooper Creek Road, which she feels also demonstrates public use.

Lauria Puntin of 1 Cooper Creek stated that she does not see how the Select Board does not consider first responders, public and she asks that they use common sense when making this decision. She also stated that during hunting season, hunters park up there and hunt for the day, which other residents added that the public parks up there to fish the brook and are not asked to leave. Selectman Curtin challenged this as at the last meeting when he asked about parking up there, residents said there was no parking. David Garlock said when people park across from his driveway, there is nothing he can do about it. That there is nothing the police would do either if they are not causing a disturbance so he wonders why it would be said the public cannot park there, when they do.

William Roche of 181 Main Road, stated he had three concerns in re to this discussion. He stated maybe the residents of Cooper Creek talk to the attendant at the Bunker house on the Appalachian Trail about directing hikers down their road as hikers don't need to use the road, they are in the woods to hike. He also wanted to know if the public could use their beach, which Elizabeth Goodman stated that is not what we are here to discuss, we are here to discuss the road. He also stated if anyone in town were to make a new road and deem it private, would the town be held liable to plow that?

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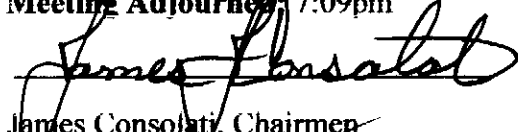
Selectman Consolati brought the discussion back by stating he feels these decisions should be made on a case by case basis. Selectman Puntin stated he was comfortable voting tonight, however, the other two Selectmen would like more time to do more research and have further discussion as needed with Town Council.

All agree to continue this discussion on September 12, 2017 when all three selectmen will next be present.

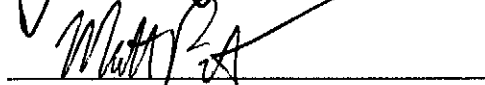
**Ridge Street:** Selectman Consolati stated that Molly sent the three Selectmen the history on Ridge Street and he wanted to ensure the remainder of the audience knew the town if looking into taking over Ridge Street. He stated they would have to get approval from the residents and the town and if approved, then the town will perform all road maintenance.

**Broadband:** Selectman Consolati stated that the waiver was granted and we are awaiting the application from Charter. Once received, the Select Board would need to hold a public hearing within 15-days. If approved, then the process will begin.

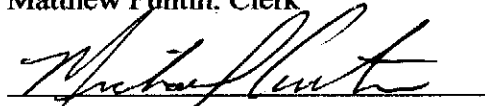
Meeting Adjourned 7:09pm



James Consolati, Chairman



Matthew Puntin, Clerk



Michael Curtin, Member

Attached: Letter submitted by Peter Shaffer written by Todd Briggs.

BOARD OF SELECTMEN / BOARD OF HEALTH

Date: August 8, 2017

Time :

Name:

5:30,

Peter <sup>CH</sup> Shaffer

Elizabeth C. Goodman, Esq

CAROL SCHAEFFER

Frayda B Diamond

David Garlock

Reba Scheeter

Ginger Elwin

Pat Gleason

Margo Schwarz

Marcia POWDERMAKER

Laura Puntin

Donald Puntin

Mark J. Cantin

William Rogers

Joseph Janni

Alan Gynn

H. Jeynes