

**BOARD OF SELECTMEN
CHAPLIN, CT**

SPECIAL MEETING

March 11, 2014

Minutes

Members Present: W. Rose, J. Smith, I. Schein

1. Call to Order:

Bill Rose called the meeting to order at 5:00 p.m.

2. Executive Session – Employee Salary Discussion

The Board entered into executive session at 5:01 pm and ended the executive session at 5:11 pm.

3. Budget Discussion

Mr. Rose asked for a motion regarding the approval of the budgets for which the Board of Selectmen are responsible and which were presented at the regular Board of Selectmen meeting held on March 6, 2014 with one exception. Mr. Rose asked for an increase on line item No. 38104 – Engineering/Technical Assistance under Public Works to pay for the shared cost with Mansfield of a Town board research/survey between Mansfield and Chaplin. Irene Schein made a motion to accept the budget as presented. John Smith seconded. All were in favor. Further budget discussion by the board brought up the subject of the Fund Balance Reserve. It is the consensus of the Board of Selectmen that maintaining a maximum 10% Fund Balance Reserve is more than adequate to cover any unforeseen expenses as the Town only has one bond for the Library and does not have any unfunded pension or retirement costs as do many of the larger towns and cities.

4. Small Cities Grant

Irene Schein made a motion to continue to participate with the Town of Hampton in the CDBG Small Cities grant program. John Smith seconded. The Board felt, when discussed, that it was a worthwhile program. All were in favor.

5. Discussion regarding Ross Road

A discussion took place with regard to the responsibility of the Town to homeowner, Leslie Eldridge, regarding the discontinuance of maintenance of Ross Road upon the discovery in 2010 that Ross Road had been discontinued at a town meeting in 1923. (See

Ross Road

At a town meeting held on April 7th, 1877 the residents of Chaplin voted “...that the Selectmen be instructed to lay out a public highway (from the public highway commencing near the house of John S. Ross running southerly to the sawmill of George A. Ross), and make a report of their doings.” That report was delivered to a town meeting held on April 21, 1877 and read as follows:

“...we have...laid out and established a public highway as follows, that is to say, commencing at the highway near the house of John S. Ross over the private way of George A. Ross, two and one half rods wide at the commencement, running in a southeasterly direction ten rods, thence two rods wide in the same direction fifteen rods(247.5) to land of George A. Ross, thence southerly two rods wide fifty one rods (841.5’) to Mills of George A. Ross, and the subscribers and the said John A. Ross owner of land over which said highway is laid agreed and estimated the damage done to the land of the said John S. Ross by the laying of the said highway at \$25.00, and George A. Ross agrees to build the fence across the land of John S. Ross and keep the same in repair, also to give the land and build the fence and road over the land of the of the said George A. Ross to the Mills, and keep the same in good and sufficient repair.”

As stated in the report by the Selectmen, the new public highway was established over the existing “private way” of George A. Ross. The initial 412.5’ of the new highway ran over the property of John S. Ross, for which he was paid \$25.00 in damages. The remaining 841.5’ of new highway ran over the land of George A. Ross and provided the public access to his mills. Since this highway benefited George A. Ross, he was paid no damages when he agreed to give “the land and to build the fence and road.” In the absence of a deed conveying title to the roadbed from either John S. Ross or George A. Ross to the Town of Chaplin, Ross Road existed as a public right-of-way running over privately owned land, a common occurrence in Connecticut. Though George A. Ross agreed to “give the land” for the road, in the absence of a deed to the town, the *giving* of the land is considered a “dedication” and not a conveyance of title.

At a meeting of the inhabitants of Chaplin, held on October 1st, 1923, it was voted “That the town abandon its rights in the road leading from the public highway to the mill of the late Charles E. Ross.” Since this discontinuance took place prior to 1959, and since **Connecticut General Statutes Sec. 13a-55** is not a retroactive statute, the properties abutting Ross Road do not enjoy a statutorily mandated right-of-way over it. However, it should be noted that the long continued use of another’s land without permission can often lead to a transfer of non-possessory rights, often called prescriptive easements. This is similar to *adverse possession* except that title to the property remains vested with the owner of the property; while usage rights, subsequent to court recognition, become legally vested in the non-owner.

In the case of Ross Road, the abutting properties owned by Stephen and Ann Nasin (tax map lot 142), and Edward and Catherine Nasin (tax map lot 143), enjoy a right-of-way of record over this laneway and need not qualify for a prescriptive easement; whereas, the properties owned by Marilyn and Raymond Nurme (tax map lot 141), and Paul E. and

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Susan Peifer (tax map lot 145), do not possess a right-of way of record. However, both the Nurme and Peifer properties may have acquired, through longstanding use, the right of continued use to this laneway. The laneway itself is apparently owned, in its entirety, by PADANERMAR, LLC (tax map lot 144), by way of Quit Claim Deed from Eric Gamache, Daniel Gamache, Paul Gamache and Marc Gamache, dated November 8, 2006, recorded in Chaplin Land Records, Volume 87, Page 1018.