

**Leyden Select Board Minutes**  
**Leyden Town Office Building**  
**Working Session**  
**March 20, 2023**  
**6:00 pm**

In Attendance: Bill Glabach, Glenn Caffery, Katherine DiMatteo, Erica Jensen, Liz Kidder, Dave Pomerantz, Bill Brooks

Bill called the meeting to order at 10am. Announcement that the meeting is being recorded.

**Debriefing on storm:**

Highway report on March 14-16 storm: Bill Brooks reported that the cost has been their time and diesel fuel, a broken windshield, loader tire chains will need replacement could be \$6,000. Debris needs to be cleaned once snow and ice is melted. The Tree Warden budget can't cover the cost. The companies with chippers won't do the trees because of the sand and salt that would ruin their machines. Martin Farm Compost probably won't be able to take the trees/branches for the same reason. Is there a place in town to put the brush and then later burn.

Erica asked the chains – do they have to be replaced right away. Bill B. – depends on whether there is another storm, they are off now. Won't have to be purchased right away – could come out of highway maintenance budget in the next fiscal year.

Glenn asked if this year was unusual for tree breaking. Bill B. said yes, and they haven't had to remove as much in the past.

Erica asked about trees still hanging over the roads. Bill B. will call MD Tree and they will cut and chip. Priority is trees that are hanging over houses and wires. Bill B. relies on folks letting him know where there are trees hanging. Leave an email with the highway department if not urgent. Call if urgent.

Liz asked about shrubs and branches on people's property that hangs over the roads. Bill B. said this is a problem identifying who is responsible. Bill will cut the ones that are blocking traffic, but SB might need to write to citizens about maintaining their trees/shrubs.

Bill B. reported that Rolling Lane is a private road, and it was not cleared and needed track vehicles to get to a medical emergency. Fire trucks would not have been able to respond to any fires on that road.

Eversource trucks got stuck and the highway department had to pull them out.

Dave: We had to wait for trees to be cut before the highway department could plow but we were dependent on Eversource to send the tree cutting equipment and personnel.

Erica: Everyone runs on a ticket and there are different tickets and work for different companies. We had 7 companies who came to Leyden. Not coordinated or centralized but it is frustrating. Number of outages get priority. There is a method that is a bit madness, and we don't have insight into the method. Not sure that there is anything that can be done.

Dave: If it is an emergency and highway can't clear the road because we are waiting for tree and utility companies. How to get timely updates out to anxious citizens. EMD has little control. All priorities would go to medical emergencies.

Glenn asked Bill B. if they are stretching themselves to serve the town and it might not be safe. Bill is clear about what they can do safely. Sometimes the utility companies let them know when the power is cut, and the highway can push the trees and lines out of the way.

Erica: Trees down, live wires and snow – the only way to get in was to use a track vehicle. Not sure if utility companies will shut the power down if they are notified of a medical emergency where access is needed. There are so many people in a medical emergency and moving parts, so coordination is difficult. Bernardston police have track equipment for the wellness check, but we don't know if a paramedic would get on that equipment.

Bill Glabach noted that the previous EMD had tried to have equipment to use for such emergency situations.

Dave: this storm clearly shows that we are still evolving. It would be good to have town-owned equipment like snow mobiles and track vehicles or ATVs.

Liz: next Tuesday night is public safety advisory committee and could be advertised so citizens could come to hear about what happened, what were the obstacles, what the EMC could do. Erica and Dave agreed that they could attend.

Glenn asked if EMDs are looking for volunteers and ways to partner with citizen groups like snowmobilers, tractors and heavy-duty 4-wheel drive pick-up trucks.

Dave reported that he has reached out to Jeff Miller who heads the MA Snowmobile Association and the local club.

Katherine asked about declaring an emergency: Dave has been in touch with MEMA and the state declaration of emergency was not made. It's valuable to make the declaration for the town to keep people off the road. State reps can advocate with the Governor to get some money.

Glenn noted that Bill B. asked if he should track expenses from the beginning of the storm or when the emergency is declared. MEMA reported that midday on Tuesday towns were beginning to think about declaring a state of emergency. Banning travel would be a negative if a declaration was declared too soon.

Erica believes that the expenses should be recorded from when the declaration is made. Bill gets overtime in a state of emergency. Forms for declaration of state of emergency should be on hand so that it can be done in a timely way.

Glenn asked if there is a form to end the state of emergency, and if that should be done. Bill agreed to declare early. Bill B. gets paid for overtime when the town declares a state of emergency. Dave P. will check with MEMA about ending the declaration.

**Motion:** Katherine moved that the state of emergency be lifted at 11am. Glenn second. Unanimous.

#### **COA luncheon:**

Katherine reported that the advisory committee recommended that a senior luncheon be held on April 12<sup>th</sup> at 11:30am with a presentation by Holly Spatcher on her trip to Africa at 11am. Katherine asked if the Selectboard as the Council on Ageing to approve this event.

**Motion:** Bill moved approval of COA event on April 12, 2023. Glenn second. Unanimous.

**Motion:** Glenn moved for the Selectboard to enter Executive Session- According to MGL Chapter 30A, Section 21a (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting

may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. Katherine second. Glenn yes, Bill yes, Katherine yes,

12:00pm Return to open session

In attendance: Bob Penfield, Jim Brodeur, Donna McNichol

**Motion:** Glen moved to reconvene in open session, Katherine second. Unanimous  
Reconvene the public meeting at 12:10pm

### **Meeting with Bob Penfield**

Donna asked Bob if he has hired a lawyer. He noted that he hasn't and hopes it can be worked out without lawyers.

Donna presented our position. Discontinue and establish as a statutory private way which would mean that others could not gate him off. Town can't afford to fix or maintain the road. Town does not want to stop Bob from getting to his property and the town does not want to maintain the road. Town is trying to clean up the records regarding our non-maintained roads. Glenn explained that in the 1980s Town Meeting had discontinued unmaintained roads, but Hunt Hill and East Hill roads were not included at the time.

Bob spoke about his concerns, noting that he had checked with SB if the road was a town road before he bought the land. My original purpose was for his family to hunt. Feels his back is against a wall, being pushed by folks in Leyden. There is an intermittent stream with a temporary bridge for 3 years allowed by the Conservation Committee. He is looking into putting in a permanent bridge if he wants regular access to the land. His concerns were about a private road; he is now clear that he can have access. North side of property has wetlands. The Conservation Committee has noted that the road itself may also be considered a wetland.

Donna clarified that there are different private roads: statutory private and private. Under the Wetlands Act, there is an exemption for wetlands along a road for a town to do maintenance. Statutory private way – landowners can do maintenance with permission from SB and with advice of the Highway Department.

Bob noted that he is asking because he may want to add gravel to fix the road since it is not passable with his pick-up truck, just his Jeep and his tractor.

Glenn spoke to our intention – we want to make sure he can get to his property.

Bob asked if anything could change at a future time. Donna responded that Town Meeting can make changes if there is a private petition or SB article. Donna clarified that if it was a statutory private way, it could not be a building lot. Donna noted that Bob can ask to speak at town meeting, Town meeting must vote to allow, but he cannot vote.

Glenn asked if the statutory private way vote gives more clarity to the town's lack of certainty on whether the road is a public way. Donna explained the legality of what a public way is. Records are so poor in the town. The vote as a statutory private way would clarify the legality of the road but doesn't give you frontage on a town road.

Bill G. noted that it protects Bob Penfield and the cost to improve the road would be cost prohibitive for the town. Bill G. suggested that the town buy the land.

Donna noted that the SB could ask the Town Meeting to pass over the warrant articles for Hunt Hill if there is an agreement that Penfield does not increase the value of the land. Gives both sides time to come up with a way forward.

Jim Brodeur had previously asked if the land was sold to the town, could Bob cut further and use it for hunting. Answer: No

Jim asked about the collapsed culvert and if it was needed in the future to access part of the land.

Donna responded that if it was a statutory private way permission could be given to fix that culvert to give access.

Bob agreed that he would sign an agreement to not add value to the land while he and the town discuss how to move forward that is best for both, until new articles can be added to the Annual Town Meeting. SB agreed to ask the Town Meeting to pass over the Hunt Hill articles tonight.

Bob asked about the letter he received from the town that indicated that the road was 2 rods wide. Bob does not know where those boundaries of the width exist.

Jim noted that the deeds for the other owners will show where the property lines are and the width of the road. Stone walls are the boundaries of the road historically – it might not be 2 rods. If the town wants 2 rods, then there might have to be a taking of property.

Break at 12:45pm

Reconvene 1:15 pm. Donna read the agreement aloud. (attached)

Reconvene public meeting at 12:10pm

**Motion:** Katherine moved to sign the presented agreement and discussed with Bob Penfield. Glenn seconded. Unanimous approval.

Glenn reported on amendment to warrant article on East Hill Road discontinuance.

**Motion:** Glenn moved to amend the motion for Article 6 to vote to abandon and discontinue a portion of East Hill Road more particularly described as follows: Running a width of 2 rods and beginning at a point on East Hill Road 200' south from the intersection of East Hill Road and Simon Keets Road, then running southerly a distance of 1,303' to a point on East Hill Road marked by a pin next to maple tree.

Katherine seconded the motion. Unanimous.

**Motion:** Katherine moved to adjourn the meeting at 2:00pm.

Respectfully submitted,  
Katherine DiMatteo