

The Village Advocate

AUGUST 1989

NEWS AND VIEWS FOR THE RESIDENTS OF EIDELWEISS

NO: 8

SIGN ISSUE TAKEN UNDER ADVISEMENT

On August 3rd a hearing was heard before Judge Hamlyn Green on Mr. MacArthur's alleged violation of the sign ordinance. Attorney Moran, representing MacArthur, maintained that the Village did not have the proper authority to zone and also insisted that the signs in question were grandfathered. The Villages's Zoning Enforcement Officer, Bob Urekew, presented background information on the history of Eidelweiss's zoning. Judge Green has not indicated when he will be issuing an opinion.

REC COM TO CLEAN UP VDOE

The newly authorized Recreation Committee, under the Chairmanship of Ed Ferullo, met recently for the first time and took as one of their first priorities, cleaning up the Village, starting with the Playground this weekend. Members of the Committee are Eleanor Ferullo, Donna Smith, Diane Graffam and Suzanne Engler. They are planning events for Labor Day, Halloween etc.

HEARING CONTINUED TO SEPTEMBER

The case before the State Department of Labor in Concord concerning Mr. Brad Donaldson, the former Public Works Manager, has been continued to Monday, September 11th. The hearing was started on May 16th and has been extended twice. Mr. Donaldson filed his complaint under the Whistle Blower's Act claiming he was wrongfully discharged because he blew the whistle on Mr. Monet's stump dump. Mr. Donaldson is requesting reinstatement and compensation. Mr. Willett and Mr. Rosenberg have appeared on Mr. Donaldson's behalf. Mr. Engler, Mr. Maudaley and Mr. Vendola have so far appeared for the Village. Attorney Dan Crean of Laconia has been hired to lead Eidelweiss's defense.

COMMISSIONERS AND SELECTMEN MEET

The Commissioners met with the Selectmen of Madison on July 17th. The Selectmen indicated they took a dim view of the sticker campaign advising Eidelweiss residents to use Conway for fire calls that had been proposed by Mr. Dempsey and Mr. Rosenberg. They also indicated that the pumper truck, formerly in Eidelweiss, was no longer in service and there were no plans to put another truck back in Eidelweiss. The Commissioners raised the issues of road maintenance, and property assessments. The Selectmen maintained that the Town does not give rebates on taxes for reduced services. The two Boards were in agreement that they should next meet to discuss the draft of the Madison Planning Board's recommendations for zoning amendments.

FROM RECENT COMMISSIONERS MEETINGS
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The Village District has been awarded a State grant (\$5,000) to carry out an energy audit of the four municipal buildings.

Acting on the advice of the attorney, the Commissioners have voted to continue with the Bristenstock extension in view of the substantial progress of the project and to avoid retroactive legislation. Questions had been raised as to whether it came under the water moratorium passed at the April meeting although it had been paid for and scheduled last year.

On July 7th the Commissioners met with members of the Planning Board. They discussed the autonomy of the Planning Board, legal council and objectives. The situation with regard to the Madison Planning Board and progress with incorporating Eidelweiss zoning into the Madison Zoning was also covered. The Planning Board's involvement in developing a water resources master plan was discussed.

Mr. Dempsey's alleged misuse of position and official stationery was referred back to the Planning Board for further discussion.

Ed Foley has been appointed an alternate to the Planning Board.

Larry Monet was appointed to the Zoning Board of Adjustments.

Ed Ferullo was appointed Chairman of the Recreation Committee with the authority to appoint other members of the Committee.

Gloria Hayford was appointed Chairman of the Conservation Advisory Committee.

A design for a holding tank septic system for the A frame has been commissioned from Mr. Clough.

A complaint by Mr. Dempsey about a violation of the Zoning Ordinance by Mr. Foley was determined to be without foundation since it was grandfathered.

The structural problems of the Municipal Building have received some attention. At least part of it is built on a stump dump and the rate at which the building is sinking is an issue.

The Commissioners accepted a bid from Abbott Drilling and Blasting Co. for \$2,900 for blasting on Bristenstock Drive.

Mr. Willett presented a list of complaints about the Public Works Department. The Foreman, Ron Audette, responded in detail and in writing.

The Commissioners agreed to get price quotes on paving the section of Eidelweiss Drive around the Little Pond.

ROOTS

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A few weeks ago another interesting episode in Eidelweiss's checkered history drew to a close with an out of court settlement with Mr. Nash concerning an incident that occurred in 1987. The details are not relevant here except insofar as a key factor in the whole mess was a letter from Attorney John Connolly that challenged the legality of some of the more sacred cows in Eidelweiss. Since some of the same questions are being raised in the MacArthur/Morang/sign case currently being reviewed by Judge Green perhaps it is appropriate to consider some of the issues raised formally by Mr. Connolly. In reality, these issues have never received much of a public airing. Perhaps that is the reason they have never gone away.

Mr. Connolly focused primarily on the Planning Board but the issues he raised have broader implications. He questioned Eidelweiss's authority to "plan". He also maintained that even if we had such authority we set it up wrong and even if we had set it up right it then proceeded to function incorrectly.

It has often been stated, usually for the purposes of impressing a large uninformed gathering, that we have all the powers and authority of a town. Even a simplistic reading of the statutes clearly indicates that a Village District has such powers only "in relation to the objects for which it was established ...". What were the "objects" for which Eidelweiss was established? Village Districts are formed under Chapter 52A. They may be formed for any of the following purposes:

Putting out fires, lighting or sprinkling of streets, planting and care for shade and ornamental trees, supplying water, construction, operation and maintenance of sidewalks, sewers, water treatment plants, parks, recreational activities, lighting plant, control of pollen, insects and pests, the impoundment of water, employing policemen, the lay out, acceptance, construction and maintenance of roads, and the maintenance of ambulance services.

One thing that stands out about the list is how specific it is. There's no mention of schools, landfills, collecting taxes, assessing property, subdividing lots, checking checklists and lots of things that normal towns do. Presumably, if it isn't on the list you can't do it - unless you get an act of the legislature. This was done in 1982 to permit Eidelweiss to establish zoning. In reality, the statutes specifically require that Village Districts have to get such authorization before they can zone. Moreover, the legislation obtained is very narrow in that it identifies only those portions of the land use regulations that cover zoning. It does not, for example, include subdivision or site review regulations or establishment of historic districts. It is possible, therefore, that our Planning Board owes its existence to simply being an incidental byproduct of the authority to do zoning. Zoning may be all it can do. Its efforts in the area of building permits, site reviews and the recent efforts at enforcement of zoning may, therefore, be presumptive and devoid of any legal basis. The phrase most often associated with the

Planning Board is that, even today, it continues to "troll" i.e. goes fishing, for lawsuits. Mr. Connolly put us on notice but we have done little about it.

Although the Planning Board is probably the most blatant example of usurping authority for which it is not entitled there are other examples that spring to mind. Remember how we thought we could have our own check list supervisors and did so for several years. It turned out to be a function that properly belongs with Madison. Interestingly, Conway has recently obtained authorisation to delegate that function to the Village Districts. Note, however, it took a special act of the legislature to do so. Neither towns nor village districts can usurp or abandon statutory functions without the appropriate authorization. In another troubling area, we are still issuing building permits without a building code or permit ordinance and even without knowing that we can have either. Before we get into further trouble perhaps it might be an idea to go back to our roots and re-examine what the Village is, or is not, empowered to do. In the meantime, let's plant and sprinkle - and head for those shade trees.

AROUND THE VILLAGE =====

Pears are cool - especially with ice cream.

Pairs are cool - too- especially when they are two loon chicks. Unfortunately one of them didn't make it.

Jane Sigston bid farewell after 4 1/2 years as bookkeeper and general factotum. They are having a busy season at their campground in Tamworth.

We need more beach.

New to the office are Dot Monaghan as part time administrative help. Dennis Frechette of Computer Links has been contracted to do the bookkeeping. He already has a system up, running and computerised. The Treasurer, who is also new, is very pleased.

New office hours are Monday - Tuesday 9 - 3 p.m. There are no canoes for rent.

Parkinson's law seems to be operating with the new canoe racks. As the number of racks increases so do the number of canoes needing them.

It is that time of year for considering the lillies in the field - they toil not - neither do they spin. What a life! No wonder Solomon couldn't compete. And he was King - in a totally non-democratic society!

The loonies got together the other Saturday morning to watch a video and hear Carol Howard of the Loon Preservation Society. The first effort of the new conservation group being spearheaded

by Gloria Hayford and Mike Smith.

They say the Eidelweiss sign is high atop the Municipal Garage so that as the building sinks slowly into the ground.....

Talking of stumps and dumps the new drive thru' system at the Transfer Station is quite an improvement. Even the cats are being given the run around.

Just call me "Mudflap" as I creamed the right rear one off Holly's car. It took some doing, too - it was right in our own driveway.

We need more beach.

News from the wild kingdom this month focuses on the pillars of our society. The caterpillars that is, and if you didn't have them crawling all over your house this year, then wait till next year. They move in with munching sounding like fine rain and leave the area looking like Winter in July.

A good summer is like a good computer program - no bugs.

Signs of suburbia - dog bites policeman! Fortunately, Chief MacDonald was not badly hurt. Don't people know there is a leash law in Madison. Does that come under Planning and Zoning? Does it apply in Eidelweiss? Do we have the statutory authority to elect, or appoint, our very own DG (dog catcher). Would we have to send them to school to get a license? Can we use eminent domain to secure a dog pound? Where would the pound be? Any suggestions??

Good luck to Ed Ferullo, the new President of the Property Owners Association. He's advocating a less confrontational approach, less politics and more emphasis on recreational and conservational issues. He deserves support so if you agree let him know. Ed is also heading up the new Recreation Committee authorized by the voters in April.

Hoyt Haynie of the Municipal Bond Bank met with the Commissioners in June to talk long term financing. Heavy stuff this - lots of zeros.

Its been a good week for the Madison Old Home Week. To-night it's the Mardi Gras parade and the street dance.

There were three students from 7th grade at Kennett who were accepted into the John Hopkins University Program for Gifted and Talented Youth on the basis of their SAT scores. Two of them were from Eidelweiss, Laura Engler and Niccole Welshimer. They also do baby sitting. Continuing with school news, Paul Smith moves from Madison to Kennett Junior High in September. Big day for some mums is coming soon when Kristin Calitri, Carly Vendola and Mark Verrochi go to kindergarten for the first time. Whether there will be much of a school to go to is uncertain.

There was a Commissioner's meeting recently that finished around 10.00 o'clock. Everyone stood around afterwards looking

lost. Bob Urekew actually got home on the same day he left.

Larry Monet's new construction is likely to be one of the most closely watched events in history. But isn't it about time that Mr. Rosenberg stopped his silly vendetta? If you agree - honk your horn every time you see Mr. Monet - or Mr. Rosenberg.

On another sticky subject the old fire pumper has pumped its last drop. Madison is centralising all its equipment and doing away with substandard equipment. There is no intent to having any satellite stations.

Some of the refurbished street signs are beginning to appear. The work is being carried out by Ed. Foley.

The water in the ponds is probably fit to drink. A monitoring program is being established in conjunction with the Silver Lake Association to gather data on the ponds and watch their health.

The new full time man on the Madison Police Department is Scott Frost. He was formerly with the Conway Police and Sheriffs Departments.

Local boys come good! Hitting the headlines a few weeks ago were Steve Richardson of the Sheriff's Department and Chief Malcolm MacDonald. They were much involved in an extensive and prolonged investigation, and subsequent arrest of a local ring dealing in stolen vehicles etc.

Once more, altogether now - we need more beach.

Cable TV is here and are the folks at the bottom of the hills pleased! They can now find out what is going on in the real world. Questions have been asked about the public access channel. Are we going to get late night showings such as -"Friday Night Live - with the Commissioners." On Saturday mornings you could watch the Property Owners Association Board of Directors - or cartoons. For the hearing impaired, will the sign language be provided by members of the Planning Board? Tune in next month for more.

And as the dust sinks slowly on Eidelweiss Drive we bid you good fun in the sun. Once more - to the beach.

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