

**DRAFT**

**New Durham Board of Selectmen  
Minutes of Meeting ~ February 15, 2007  
Town Hall**

**Members present:** Chairperson Dwight Jones, Ronald Gehl, Peter Rhoades

**Also present:** Town Administrator April Whittaker, Road Agent Mark Fuller, Police Chief Shawn Bernier, Interim Fire Chief Rod Nelson, Assistant Chief Russ Sample, Emergency Management Director Terry Jarvis, BI/CEO David Lindberg, Planning Board Chairperson Robert Craycraft, Skip Fadden, George Gale, John Quinn

**1. Call to Order:** Chairperson Dwight Jones called the meeting to order at 7:05 PM.

**2. Citizens' Forum:**

Town Administrator April Whittaker introduced the Board to Robert Estes, who had a question as to what upgrades on a private road in the South Shore area would be necessary, in order to obtain a building permit on two back lots. Selectman Ron Gehl stated there had been a similar application in the area, and the section of the private road had to be upgraded along with drainage improvements, so Mr. Estes could look at the new T road in South Shore to get a general sense of what would need to be done. Road Agent Mark Fuller said he could get a copy of the road specs to Mr. Estes. Selectman Peter Rhoades noted run-off was a concern, and would prefer not to see drainage into the lake. Selectman Gehl reiterated that the standard for the road would be similar to the section recently upgraded, and that the Board would be looking at drainage problems, as drainage has been an issue in that area. Due to proximity to Merrymeeting Lake, the Board would be concerned about additional run-off into the water. Mr. Estes asked the best way to access the property and RA Fuller said it was basically Mr. Estes' decision. Discussion ensued about the 15 per cent grade in one area. RA Fuller suggested there would be better and safer access from another direction. Selectman Gehl said a public hearing would need to be held, as well as a site walk upon receipt of a completed building permit.

Mr. Estes said he had made an offer on the properties with the contingency of test pit approval and road upgrade requirements. TA Whittaker said he needed to start the septic system approval first, then he could apply for a building permit. Following a seven-day notice requirement in a newspaper of general circulation, he could then be scheduled for a Board meeting. TA Whittaker said the process would take about two to three weeks if he started right away.

George Gale, chairperson of the Meetinghouse Committee, presented the Board with two bids for carved wooden signs, double-sided and painted, for the 1772 Meetinghouse. Per the LCHIP stewardship agreement, the Town is required to erect a sign indicating the group's support of LCHIP funding. Mr. Gale said the bids were for \$375 and \$650. Selectman Gehl suggested he speak with Angie Hobbs, who did the original sign. Mr. Gale pointed out the original sign is 10 years old and has some damage, so he has asked for an estimate for repairs. Selectman Gehl mentioned the format for the new sign was good.

Regarding the 1772 Meetinghouse, TA Whittaker asked Road Agent Fuller if he would plow out the driveway, as visitors will be on the premises as part of developing the Historic Structure Report plus there was a fire safety issue so that the Fire Department had access in the event of a fire.

### **3. Department Reports**

*Police* – Police Chief Shawn Bernier presented the Board with the activity breakdown for January. In response to Selectman Rhoades’ question, he said the break-in at Johnson’s Restaurant is still under investigation. He told the Board that two front line cars have defibrillators and all officers are trained to use them. TA Whittaker said there is a defibrillator in Town Hall, but no one there is trained. Chief Nelson said Firefighter Kevin Ruel would be scheduling training. Chief Bernier explained the shelf life of a pad is about a year.

*Highway* – RA Fuller said his department made it through the recent storm all right. He indicated Kodiak Realty has turned in subdivision plans, but it is time to contract a third party engineer for the project. TA Whittaker said she sent out an email to the Board about this, and that she and RA Fuller favor contracting with CMA Engineers because they’ve worked with the Town before and they are present when the road is constructed to ensure compliance with the town’s road construction standards. She added that Strafford Regional Planning Commission recommended Rockingham County Conservation District, which now offers engineering services. However, she felt that the engineer being present during construction phases was vital. She explained that the developer picks up the cost of the third party engineer, but the Town must do the contracting. Selectman Gehl stated responsiveness on the part of the third party engineer is critical, and that he felt CMA has been responsive. RA Fuller pointed out CMA supervised Penny Lane and the landfill closure. Selectman Rhoades said he wanted to check out others. RA Fuller said the Town should be looking for someone who will stay on from start to finish. Planning Board Chairperson Robert Craycraft said he was aware of the situation, and felt that the time was getting near to require the assistance of third party oversight.

*Fire* – Chief Nelson asked if the Town looked at water sources concerning subdivisions. Mr. Craycraft said those concerns should be reviewed by the Fire Department. Land Use Administrator David Allen is working on a protocol. TA Whittaker said reviewing subdivision plans was a collective process among the department heads, and Chief Nelson’s notes should be typed and sent along to the planners from now on as part of the record of recommendations.

In response to Chief Nelson’s question at a previous meeting, Chair Jones said research has been conducted on the generator that was to be purchased with federal and state grants awarded to the town. Chief Nelson pointed out that occurred when he was not in the department. He said he wanted to use the generator to supply power to the fire station, police department, and Town Hall. Selectman Gehl said because it was grant funding connected with an emergency shelter operations situation, the matter was not as simple as popping in a generator. Chief Nelson said there would be a room set up for emergency management at the fire station, and that is why he is curious about the status of the generator. Chief Bernier noted the three buildings have three separate boxes. Chief Nelson said he didn’t know how much it would cost to wire all three to the generator, but it could cause real problems if power were lost.

Chair Jones said he dug through files and because of a finding, it will be necessary to go to the state and straighten some things out. Apparently, in a 2004 letter to Mr. Verveille regarding the final expenditure and performance report for the \$24,000 grant (with \$8,000 appropriated), it is stated that the Town used the grant to acquire a generator to power an emergency center at the fire station, and per grant requirements, the Town would maintain records for three years. Chair Jones stated that there was no generator acquisition and it was not put in the fire station per the stated letter.

TA Whittaker said the letter stated a generator was bought, but it was not. Her concern rested with the misconception and any potential audit for which the current administration were not the responsible parties. RA Fuller explained that the purchase was nearly completed, when a controversy with the school district over the issue arose, and it did not get done. Selectman Gehl said the grant money was targeted for a particular use. He stated a letter went to the state saying we already installed the generator. He added the funds are sitting in the account. TA Whittaker said her problem was that there is basically a lie going to the state, so ethically that needs to be reported before we acquire a generator to ensure we are within the confines of the original contract. She said the current administration needed to clear the air with the state to ensure that we are not part of problem that may arise due to the misrepresentation of the acquisition of a generator. She noted she has the original grant paperwork.

RA Fuller said Mr. Verveille is easy to talk to. Selectman Gehl said dialogue would be opened with him. Chief Nelson indicated a need for a generator in town. Selectman Rhoades stated however, that in the first instance, it needs to be determined if the Town is still entitled to it. He went on to say the previous administration lied about it and we have to find out if we can keep the money.

The Board authorized the Chairman to work with TA Whittaker to review the grant paperwork and get in touch with Mr. Verveille. Selectman Rhoades said if it is possible to proceed, it should be done as soon as possible. TA Whittaker confirmed that no acquisition would take place until hearing back from the state. In response to an audience question, Chair Jones said William Herman, former Town Administrator signed the letter, with copies to Terry Jarvis, Emergency Management Director and the then Board of Selectmen.

**4. Continued Public Hearing** – Building permit request on a private road by Steven Smith, under RSA 674:41.

TA Whittaker indicated the Board had a copy of Town Counsel's response relating to their authority in this matter.

**Motion by Selectman Gehl to authorize release of this correspondence and that the correspondence be read; second by Selectman Rhoades. The motion carried unanimously.**

Selectman Gehl summarized that during previous hearings there was a dispute as to who owns the property in question. Both the applicant and Copple Crown Village District claim ownership. At the last meeting, the Board asked for input from Town Counsel concerning the Board's involvement regarding the lot's status as a lot of record or not. Chair Jones read the letter, which indicated the Board was not qualified to determine if the lot in question is a legal lot of record, or to decipher the chain of title, and that the parties involved in the property dispute should be referred to Superior Court to resolve the issue.

The interested parties were not present. The Board discussed whether to deny or to table the application. TA Whittaker pointed out the Board was not prepared to continue in any manner until the issue of title is resolved. She added the Copple Crown Commissioners will be seeking actions to quiet the title.

**Motion by Selectman Gehl to table consideration of the application of Steven Smith for a building permit request under RSA 674:41, pending quiet title determination by Superior Court; second by Selectman Rhoades. The motion carried unanimously.**

## **5. Public Appointments**

Betsy Andrews Parker met with the Board for an update regarding Northern Strafford Health and Safety Council. She said she would like a representative from New Durham to attend Council meetings, but acknowledged that workloads, and timing were issues for small towns. She presented the Board with the Council's yearly report and said a lot would be happening with grants. She said she had worked with EMD Jarvis, who brought a lot of knowledge to the Council's planning process. She said a representative should be in attendance so the Town is aware of all the potential grants. She explained that regional funding is the wave of the future. After 9/11, anyone receiving federal Homeland Security money must be compliant under the National Incident Management System (NIMS), where everyone is trained with the same terminology and chain of command. She said the Council was offering free certification, as well as doing officer training for FEMA. She noted an \$88,000 grant to do a workshop, and efforts to rewrite the emergency operations plan so it matched others within the county. She told the Board of the existence of a regional Citizen Corps with 100 volunteers just in the northern region of Strafford County.

Assistant Fire Chief Russ Sample explained the Citizen Corps provided an umbrella to work under for those volunteers who want to help the fire department or police department. With training, these volunteers, although not firefighters, could bring coffee or food to a fire. Ms. Andrews-Parker said New Durham was the first regional Citizen Corps in the state, but that emphasis is now on regional support, rather than town by town. Ms. Jarvis said the Corps could help with crowd and traffic control, and childcare, during a situation such as an outbreak of avian flu. Ms. Andrews-Parker pointed out the assumption that 30 per cent of a Town's force would be gone due to infection, so it would be preferable to have support personnel cover those types of jobs. She said the Council will hold a large-scale drill in April, testing out the mass distribution of antibiotics for anthrax in Rochester. She said she would like key personnel from New Durham to train.

Selectman Gehl said he was the designated representative to the Council, but it was difficult for him to attend as the meetings are held during the day. Ms. Andrews-Parker said someone was needed who had decision-making authority and who could ensure communication with the Board.

Selectman Gehl said all Selectmen have day jobs, but he had been following the communications from the Council. Ms. Andrews-Parker said if the Board felt comfortable with her handling things for the Town, that it felt it was being taken care of, had a voice, and was getting the most of what it needed from the Council, with a level of participation as just receiving email updates, that was acceptable to her. Selectman Gehl said the Citizen Corps would provide a good deal of benefit in a real life emergency situation, and that it was wonderful the training would be held here.

Ms. Andrews-Parker said she wanted to ensure the Town was getting all the money it could. She said she would love to have the police or fire chief sit on the Council's Board. The next meeting is April 19.

Selectman Rhoades said he commended the Council's desire to compensate, but that he liked the stipend situation, rather than on-call pay, because it keeps things on a small-town basis. He said he preferred someone thinking he was paid to get a job done, and not worrying about working another hour. Ms. Andrews-Parker said it was sometimes easier to stipulate how many hours were worked when authorities sign off on Homeland Security funds. She cited the many duties of health officers. Selectman Rhoades asked if it were possible to stipend and also reimburse for other work, and she indicated, yes, for things above and beyond stipend pay for expected job related duties. Selectman Rhoades asked about the possibility of setting a dollar amount for what is above and beyond the stipend. Selectman Gehl noted most of these programs were set up for larger cities with full-time employees.

## **6. Schedule Next Meeting**

The Board scheduled its next meeting for March 5, 2007 at 7:00 p.m. at Town Hall.

## **7. Administrative Review**

The Board signed Chief Bernier's authorization to enter into and sign for the OHRV grant ending June 30, 2007, and also for the OHRV grant ending June 30, 2008.

To serve on the reconstituted Highway Safety Committee to meet once a year, TA Whittaker suggested RA Fuller, Chief Bernier or representative, Chief Nelson or representative, Equipment Mechanic David Valladares, and TA Whittaker.

### **Motion by Selectman Gehl to establish a Highway Safety Committee with the representatives outlined by TA Whittaker; second by Selectman Rhoades. The motion carried unanimously.**

Chief Bernier and Chief Nelson indicated they would serve on the committee.

Regarding the provided newsletter draft for review, TA Whittaker said it would be necessary to develop a timeline for the production schedule. The newsletter is to include an insert of a one-page survey for the Recreation Commissioners, which can be mailed back or dropped off. TA Whittaker said the newsletter should go out the first week in March, as the emphasis is on the warrant articles for the upcoming town meeting.

TA Whittaker said she scheduled a public hearing for an update on the Solid Waste and Recycling Ordinance for March 5, 2007, as plastics recycling has recommenced and there have been revisions to the disposal fees.

She reported the Personnel Committee has recommendations for changes in the Personnel Handbook for the Board's approval. She indicated the Board needed to take action tonight on the issue of compensation time. Recommendations are to require vacation and personal days to be taken prior to taking comp time and that employees may not accrue more than 40 hours of compensatory time in the calendar year, and those hours must be zeroed out by December 31 of that year. Other changes recommended are a probationary period of one year rather than six months; doing away with current accrual rate for annual leave after 10 years to make it twenty normal days; employees with 20 years service to receive payment for 100 per cent of their accumulated, unused sick leave upon separation of employment; the pay period to be 12:00 a.m. Monday through 11:59 p.m. Sunday; pay checks to be issued on Thursday morning; and five three working days of bereavement leave rather than three.

**Motion by Selectman Gehl to adopt the modified language presented for comp time in the personnel policy; second by Selectman Rhoades.** Selectman Rhoades asked for discussion to clarify the problem of comp time. RA Fuller explained he had a situation of an employee using comp time to get a month off. **Selectman Gehl modified his original motion to include the word "total" after 40, to read "40 total hours" in the second paragraph of the Compensation Time section; second by Selectman Rhoades. The motion carried unanimously.**

TA Whittaker indicated the Board could take the remaining recommendations for items 2-7 under advisement for action at the March 5, 2007 meeting.

Regarding the bereavement leave, Selectman Rhoades questioned why an employee could not take vacation time, rather than changing the bereavement leave period to five days. TA Whittaker said it

was the compassionate thing to do. She agreed that it might not be a problem for an employee who had other time to take, but someone with just a week's vacation might need it. She added that in this day and age, families are no longer right around the corner. Selectman Rhoades agreed that an employee could take off whatever time was necessary, but wasn't sure the compensation needs to be there. He said he would never ask someone to come back before they were ready, but suggested looking at offering flexibility but without pay.

TA Whittaker informed the Board that Executive Councilor John Shea would like to meet in the spring.

### **8. Old Business – Finalization of the Draft of Town Warrant and Narrative.**

The Board reviewed the warrant. Discussion ensued over Article 9, regarding adoption of an RSA granting the Board authority to acquire land. Selectman Gehl said he favored striking it from the warrant, saying one could envision a scenario where three individuals made an expensive decision for the Town. TA Whittaker, playing devil's advocate, reminded him of the built-in fail-safes per statute. Selectman Rhoades asked Mr. Craycraft his opinion. TA Whittaker read the details of the article, which include a petition override, two public hearings, and review by the Planning Board and Conservation Commission, as well as a list of properties that cannot be sold.

Chair Jones said the authority would be good if a parcel came up that the Town could use that had to be taken care of immediately i.e. time is of the essence clause. He recounted the Superior Court may not grant a Special Meeting for that. He added there were good and bad sides to the RSA. TA Whittaker agreed both sides have their problems. Selectman Rhoades put in that, in theory, a Board could sell Town Hall, which is scary. TA Whittaker pointed out that a Planning Board and Conservation Committee recommendation for doing so would be necessary.

Selectman Gehl said he read the article differently than TA Whittaker. Mr. Craycraft said he liked the 50-signature petition requirement, but was unsure about how he felt about the rest. Selectman Rhoades said the authority could be rescinded at the following Town Meeting. He said he didn't have a problem leaving the article in. He said the current Board works well together, and if one-person changes and two others saw a problem developing, those two could place an article on the warrant that rescinds the authority. Selectman Gehl said he was still inclined to remove it. Chair Jones said his initial reaction was not to take the authority, but he said he believed the Board needs the authority to act on a piece of land quickly and there are enough safeguards; and if abused, could be rescinded.

### **Motion by Selectman Rhoades to accept Article 9 as written; second by Chair Jones. The motion carried 2-1 – Jones, Rhoades aye; Gehl nay.**

The Board discussed Article 11, regarding \$165,000 for a land purchase for a Public Safety facility brought by the Fire Station committee as a petition.

### **Motion by Selectman Gehl that the Board not recommend Article 11; second by Selectman Rhoades. The motion carried unanimously.**

The Board discussed Article 16, establishing a CRF for a satellite fire station, with \$25,000 placed in the fund. Chair Jones said he believed money should be put away due to growth in the Second Division, and since land was donated.

**Motion by Selectman Rhoades to support Article 16; second by Selectman Gehl.** Gehl said initially he did not support this article given the competing demands for other capital reserves and due to a lack of a plan in CCVD. He went on to say, though, that given recent budget review of the reserves, and since learning of the high potential cost estimates for a new station, he felt that the board needed to look at options for the CCVD. He said he'd received input from residents and Town safety personnel. Selectman Rhoades said Chief Nelson indicated there was some interest in CCVD to have volunteer fire fighters. Chief Nelson said building in the area will surge, but he wondered how long it would take to get a two bay fire station there. Without a plan in place, we would not know, said Selectman Gehl, but it's a first step. **The motion carried unanimously.**

The Board discussed Article 17, concerning \$50,000 to be added to the new fire station capital reserve fund.

**Motion by Selectman Gehl not to recommend Article 17, provided there is an alternative mechanism in the Town's Building and Improvement Trust to accommodate improvements to the existing fire station; second by Rhoades. The motion carried unanimously.** Selectman Gehl noted the Board is in concurrence with the Budget Committee on that article.

**Motion by Selectman Gehl to recommend Article 22; second by Rhoades.** Article 22, not being a special warrant article, did not require the Board to recommend or not.

**Selectman Gehl modified his motion to include Article 22 on the warrant as written; second by Rhoades. The motion carried unanimously.**

**Motion by Selectman Gehl that the Board of Selectman recommend Article 27; second by Chair Jones. The motion carried unanimously.**

The Board discussed Article 28, concerning a \$10,000 tax exemption for a central wood burning heating system. The consensus was that residents would think they qualify when they may not, and that it could create a compliance and enforcement problem, as well as difficulty assessing if someone who legitimately obtains it, is still using it in the future. Chair Jones said some towns are not allowing these wood-burning systems due to pollution. The Board agreed to not make a recommendation in favor or against. Gehl said he saw it creating additional costs to the Town, as regular inspections would be necessary. Chair Jones said the Board would be neutral.

Selectman Gehl verified that the final draft of the Ethics Policy before the Board reflects changes by Town Counsel and the Board reviewed those changes. Selectman Gehl pointed out minor edits.

## **9. Approval of Minutes**

The Board tabled approval of the minutes of January 22, 2007 and February 5, 2007.

## **10. Any Other Business**

TA Whittaker said she, Land Use Administrator David Allen and Mr. Craycraft must come up with a better way of reviewing zoning amendments as every edit made required legal scrutiny. There should be one final review and not several for Town Counsel. She reported a heavier than expected bill from Town Counsel for doing that, and said they would work on tightening up the process so there is only one session or one review by Town Counsel during 2007. She indicated amending zoning ordinances should ideally, be brought forward in September or so, not later.

## **11. Adjournment**

**Motion by Selectman Rhoades to adjourn; second by Jones. The motion carried unanimously.**

Respectfully submitted,

*Cathy L. Allyn*

A video recording of this meeting is on file with the Office of Town Clerk, is available for public viewing during normal business hours, and will be retained in accordance with the New Hampshire Municipal Records Board rules established under RSA 33-A: 4, or for a minimum of 24 months.