

DRAFT

New Durham Board of Selectmen
Minutes of Meeting ~ March 19, 2007
Town Hall

Members present: Chairperson Ronald Gehl, Peter Rhoades, David Bickford

Also present: Town Administrator April Whittaker, Road Agent Mark Fuller, Police Chief Shawn Bernier, Town Historian Cathy Orlowicz, Planning Board Chairperson Robert Craycraft, Wendy Anderson, Martha Apkarian, Thomas Beeler, Marilyn Boudreau, Victor Boudreau, Eric Cantrall, Amy Eldridge, Skip Fadden, Kenneth Haskell, Lisa Haskell, Larry Johnson, Padraic McHale, Michelle Morrow, Daniel Nebesky, Laurie Nebesky, Amy Smith, Diane Thayer, Greg Vachon, members of the public

1. Call to Order: Acting Chairperson Ronald Gehl called the meeting to order at 7:01 p.m. and stated the first order of business should be election of the chairperson.

Motion by Selectman Peter Rhoades to appoint Selectman Gehl chairperson; second by Selectman David Bickford. The motion carried unanimously.

Selectman Gehl advised that the term is typically one year.

2. Citizens' Forum

Town Historian Cathy Orlowicz said Diane Thayer was willing to fill the vacancy on the Boodey House Committee and was present to speak with the Board. As a side note, Town Administrator April Whittaker mentioned Paddy McHale expressed interest in serving on the Advisory Capital Improvements Plan Committee; and that Robert Craycraft wished to volunteer as an alternate on the Conservation Commission if his wife steps down. Mr. Craycraft indicated in correspondence that he could serve as an effective liaison between the Planning Board and Conservation Commission.

Ms. Thayer told the Board she possessed fundraising skills, had a friend who had ancestral connections with the Boodey House, was not afraid to get her hands dirty, and would be proud to serve on the Committee. Selectman Rhoades said her appointment would be a good one.

Motion by Chair Gehl to approve Diane Thayer to the Boodey House Committee; second by Selectman Rhoades. The motion carried unanimously.

Mr. McHale remarked that the author of the handouts left on chairs at Town Meeting was not identified on the material and suggested the Board consider an ordinance requiring authors of materials distributed at Town Meeting be identified. He said without any indication of who wrote or distributed handouts, it was impossible to debate or rebut.

Selectman Gehl noted there were factual errors in a handout at Town Meeting. TA Whittaker explained the moderator is the controller of Town Meeting and has the authority to draw up rules of procedure. She said the Local Government Center is planning a moderator workshop. Regarding the handouts, she added it is a courtesy to sign what you say. Selectman Rhoades said he suspected a line was being crossed at Town Meeting and would like to know exactly where the line should be drawn.

Cathy Allyn noted the colossal amount of time the past Board spent on Town business, sacrificing days off and time away from their personal businesses and families. She suggested the Budget Committee be on the dais at Town Meeting, as that body is also involved with warrant articles. She mentioned that prohibition of calling out and muttering might be included in the rules of procedure for Town Meeting. She indicated that negative comments on TA Whittaker's salary were tiresome, especially since TA Whittaker has no doubt saved the Town more in one year due to sound financial practices and her work on the CIP than her salary increase. Regarding a comment called out at Town Meeting about working four days a week, Ms. Allyn commented that during the summer the Highway Department also works four days a week, that TA Whittaker's hours during those four days more than make up a full week's work, and that flex time was necessary to retain professionals who do a good job. She closed by saying the Selectmen's wives and children should be proud of them.

Daniel Nebesky said he agreed, adding that the CIP was a good step forward for the Town.

Many in attendance indicated they were there concerning the Chamberlin Way situation. Chair Gehl said despite three sets of correspondence to developer Steven Edwards regarding unmet conditions of approval of the road layout, the Town had had no response. He explained that without the deed, the Town had no right to maintain the road. A certified letter was sent to Mr. Edwards, as were letters to the development residents, regarding the situation.

TA Whittaker said the Town now has the signed deed and it was duly recorded on March 9, 2007. She said she and Road Agent Mark Fuller had spoken with Chris Jacobs, and the As Builts should be delivered by April 13, 2007. RA Fuller said he had documentation that the street and speed limit signs had been ordered and were due March 20, 2007. Chair Gehl noted the surveyor spent several days in the area, so the conditions were being met. RA Fuller pointed out that corrections to the ditch were to be done in the summer. TA Whittaker said the fire department was satisfied with the cistern. Mr. Nebesky asked who maintains access to the cistern. He said he could plow the area. RA Fuller said his department would appreciate that.

Chair Gehl said the issue was whether the Board felt extra effort was needed, since the Town now had the deed and documentation of promises. Selectman Rhoades asked what would be done if the survey did not come in on time.

General discussion of drainage issues ensued. RA Fuller indicated ditch excavations are to occur.

Indicating the meeting when conditional approval was awarded, Larry Johnson said he had asked then about finality of the issue and the Board said the Town would own the road. He said he was upset to be told that the road might be returned to the residents. He said the content of the letter the residents received was inappropriate.

Selectman Rhoades said it was his suggestion to send letters to residents, as well as Mr. Edwards, since there had been no action on the issue. He apologized if it had not been clear to Mr. Johnson that there were conditions and deadlines as part of the acceptance, and if Mr. Edwards did not hold to those, the acceptance would not go through. He said the letter was not meant as a scare tactic; it was meant to get the Town help.

Mr. Johnson asked if the remaining issues would threaten return of the road. Chair Gehl said they would not, since the Town held the deed. He said the bond money would take care of those issues if they were not met. Mr. Nebesky said the letter he received did not offend him, and suggested Mr. Johnson took the contents the wrong way.

Eric Cantrall asked about mailboxes. Mr. Nebesky said the Manchester Postmaster wanted security boxes. RA Fuller said he requested cluster boxes when the subdivision was accepted and he thought cluster boxes were part of the subdivision's approval. Chair Gehl said not having individual boxes mirrored what the Postmaster said. Police Chief Shawn Bernier said he was opposed to cluster boxes, as it was easier to steal from many boxes. RA Fuller said he would have asked for a paved apron to the side of the travel lane to retain the road's edge if individual boxes were used. Chair Gehl said he did not remember cluster boxes being a condition of approval. Mr. Johnson clarified that if there was nothing in the Town agreement that prohibits individual boxes, there would be no legal reason residents could not have them. RA Fuller said he thought it was part of the approval. Mr. Johnson pointed out it would be discriminatory to ask Chamberlin Way residents to put in aprons. He asked who would plow the cluster boxes. Chair Gehl said the Board would look at the subdivision approval and get information formally from the Postmaster. Ms. Orlowicz suggested the boxes were at the end of the road because the roads were originally put in as private. Mr. Johnson said the local Postmaster told him she would deliver on private roads if the roads were passable. Amy Eldridge said Mr. Edwards told her she would get her mail at her driveway and that it sounded as if the Town wanted the cluster boxes. Chair Gehl pointed out the Postmaster prefers cluster boxes. RA Fuller said the developer knew about the cluster boxes because the road was designed for them. Chair Gehl said the Planning Board needed to take up the subject. He said the discussion was raising questions the Board lacked authority to address, and that information would be gathered for the next meeting.

Martha Apkarian asked if the road was finished. RA Fuller said another layer was needed, but he wanted to wait until the remaining two houses were sold and construction complete prior to approving of a top layer. She suggested the apron could be added then. Selectman Rhoades said that would add to the project, which was not possible, since the Town was not paying for the final layer.

Selectman Bickford asked about the reduction of the speed limit. RA Fuller said the residents asked for it to be lowered.

Residents concurred that the highway department has done an excellent job of keeping the road clear.

TA Whittaker recommended that in the future, all conditions per town guidelines to lay out a highway must be met at the time of accepting a road .i.e. Return of Highway.

3. Public Appointment

The Board met with Wendy Anderson, who volunteered her services as an alternate on the Zoning Board of Adjustment. Ms. Anderson said serving would pertain to her professional work as a landscape architect. She said being on the board would offer her a chance to learn something and give back to the community. TA Whittaker quickly reviewed that the ZBA is a quasi-judicial body that deals with variances, appeals, equitable waivers, and special exceptions. She said Land Use Administrative Assistant David Allen could help with the learning curve.

Motion by Selectman Rhoades to appoint Wendy Anderson as an alternate on the ZBA; second by Selectman Bickford. The motion carried unanimously.

4. Department Reports

Police – Chief Bernier provided the February breakdown, which included 16 arrests and 94 calls for service. Officers covered 5,668 miles. Of note was an animal abuse case. The animal, a dog tied to a tree and left by a Rochester man, is recovering.

Chief Bernier said the vent in the evidence room has been taken care of and the front door has been fixed. He asked the Board if it would like to set a towing policy to include insurance requirements and a list of towing businesses to call for the fire and police departments. The Board agreed to have Chief Bernier draft a policy.

Highway – RA Fuller reported receipt of bids for reclaiming, fine grading and paving, with Pike Industries coming in the lowest. He recommended using Pike Industries again, as the bid, with a price of \$53.05 per ton for asphalt, was approximately \$9,000 lower than Wolcott Construction, a company he has been pleased with in the past.

Motion by Selectman Bickford to accept the bid of Pike Industries at \$189,908.85; second by Selectman Rhoades. During discussion, Selectman Rhoades said he appreciated RA Fuller mentioning that Wolcott came back after the floods and helped with repairs; and that the Town had been last on Pike's list. RA Fuller said Pike Industries would be aware of this discussion. **The motion carried unanimously.**

RA Fuller provided the Board with information on a used pick-up truck, approved at Town Meeting. He said DiPrizio GMC Trucks had held the $\frac{3}{4}$ ton 2001 GMC truck for him until after Town Meeting, in case of approval. Although the truck lists at \$13,900, DiPrizio's is willing to sell it for \$12,000. It has 66,000 miles on it and was never used to plow. RA

Fuller said he would use it the majority of the time, and the crew would use it to pull rakes and brooms. If the need arises, it could be used to plow. RA Fuller said the equipment mechanic looked at the truck.

Motion by Selectman Rhoades to approve the purchase of the GMC truck as described from DiPrizio GMC Trucks, Inc. for \$12,000 to include all taxes and licenses; second by Selectman Bickford. The motion carried unanimously.

Selectman Bickford said in the future he would prefer to view a vehicle under consideration and have time to think about the purchase. TA Whittaker said normally the information would have been in the packets for review prior to the meeting. Chair Gehl said in such matters he usually deferred to RA Fuller's judgment. Selectman Bickford said a resident might know of vehicle that would be acceptable.

RA Fuller said the three-year \$5.75/ton sand contract with Charles McKay has expired. Mr. McKay is offering a two-year contract at \$7.00/ton. He generally figures on a usage of 3,500 tons. The Board asked him to check out other prices.

5. Administrative Review

The Board signed the statement of appropriations from Town Meeting known as the MS-2 S and a current use tax.

Motion by Chair Gehl to accept the resignation of Jesse Box from the Boodey House Committee with regrets and thanks for his service; second by Selectman Rhoades. The motion carried unanimously.

Ms. Orłowicz applied for a special events license for the Meetinghouse 5K Race to be held July 28, 2007. The race has fire and police department approval. Funds to go to the 1772 Meetinghouse and Boodey House, if successful.

Motion by Selectman Bickford to approve the special license application for the Meetinghouse 5K Race; second by Selectman Rhoades. The motion carried unanimously.

The Board signed the veteran's exemption approved by the assessor, and an abatement request reflecting removal of a well factor from the property in question.

TA Whittaker reported on the DES Green Yards seminar she attended. She said the Cameron Junk Yard is in compliance, according to their statement. The state has inspected the yard and the Board must now do so. Chair Gehl explained the new regulations on junkyards, following Best Management Practices per DES. TA Whittaker said the Green Yards law protects the environment and water, and was brought about by salvage yard operators. She received a booklet to aid in inspection. She said DES stated it was not their job to enforce the law; the towns being the licensing agents. She said she would draft a junkyard license form based on inspection requirements. Selectman Bickford said this is if the Board disagrees with DES. TA Whittaker said that right has always existed. Chair Gehl

said the Town could not count on recurring inspections by DES, and that having to inspect can place a burden on some municipalities. The Board scheduled the Cameron inspection for 7:30 a.m. March 24, 2007.

TA Whittaker reviewed the terms and conditions of inspection of Erven Duncan's property in relation to the clean-up. She said the agreement does not state his attorney must be present during inspections. The Board scheduled the inspection to determine a baseline for March 26, 2007 at 4:30 p.m. According to the agreement, Mr. Duncan must have substantial compliance by June 1, 2007. The Board scheduled a second inspection for May 7, 2007 at 4:30 p.m. and will provide Mr. Duncan written notice of that date during the March inspection. Chief Bernier suggested sending the second date as certified mail, as well.

TA Whittaker provided a news release of a joint training venture for the Alton and New Durham fire departments. This training exercise was on ice rescue. She commented that PIO Swett is doing a good job of keeping people informed. Skip Fadden said a CD of the training photos was available at Town Hall.

Chair Gehl read a letter from the state Office of Emergency Management, confirming the Town could use the generator funds, which are in an encumbered account. The state determined the Town's acquisition of a generator was a necessity and asked that the funds be used as soon as possible. An amended final expenditure report is requested. Chair Gehl asked for the copies of the grant approval. TA Whittaker said it was generous of the state to allow the Town to keep the funds, despite the misrepresentation that occurred, which was a letter to the state stating that the generator had been purchased signed by the former administrator. Selectman Bickford asked if the grant funds included electrical, also. RA Fuller said the grant plus the Town's match for a total of \$32,000 and whatever interest has accrued should be sufficient for purchase and installation.

Chair Gehl said he had no issues with the scope of work provided by CMA Engineers, as professional engineering representation on behalf of the Town for Planning Board application review. The developing party covers the cost of the engineering review. Chair Gehl said representation at the Planning Board was implied in the proposal. Discussion ensued over the clear-cut and resultant erosion at the Penny Lane project. Chair Gehl said the Planning Board learned from that experience. Selectman Bickford noted a discrepancy of payment due in the contract terms and proposal. Chair Gehl said he would check with CMA and clarify that the 30-day payment should apply.

Motion by Chair Gehl to enter into agreement with CMA Engineers for Planning Board and municipal engineering support and to authorize the chairperson to sign; second by Selectman Rhoades. The motion carried unanimously.

Chair Gehl signed the agreement.

6. Approval of Minutes

Motion by Chair Gehl to approve the minutes of March 5, 2007 with amendments brought forward by Selectman Bickford; second by Selectman Rhoades. Gehl – aye, Rhoades – aye. Selectman Bickford abstained, as he was not on the Board for that meeting.

7. Any Other Business

Selectmen discussed board assignments. TA Whittaker suggested contacting the Merrymeeting Lake Association concerning the Milfoil Committee.

Motion by Chair Gehl to appoint Selectman Rhoades as the Selectmen’s ex officio on the Planning Board; second by Selectman Bickford. The motion carried unanimously.

Motion by Chair Gehl to appoint Selectman Bickford to the Conservation Commission; second by Selectman Rhoades. The motion carried unanimously.

Motion by Selectman Rhoades to appoint Chair Gehl as the Selectmen’s Budget Committee representative; second by Selectman Bickford. The motion carried unanimously.

Chair Gehl offered to be the alternate for the Planning Board.

Selectman Rhoades brought up scheduling the painters to complete the Town Hall project. He said the company was booking their summer work. He added the Town got its money’s worth on the front of the building. TA Whittaker said the previous job had been poor since mildew was painted over and the paint peeled after four years. Selectman Bickford recounted a personal job of getting to bare wood and putting stain down before paint. Chair Gehl mentioned using an infrared light gun to break the bond between paint and wood and offered the Town use of his. Services would be paid by the hour. Thirty-five thousand dollars was budgeted for the job.

Motion by Selectman Rhoades to put the Town Hall project on the Pike Brothers’ schedule, not to exceed \$35,000, and with a reassessment of that figure when the project is fifty per cent completed; second by Selectman Bickford. The motion carried unanimously.

RA Fuller offered to indicate to the painting company where the septic tanks and systems are in the back area to avoid crushing any pipes.

8. Schedule Next Meeting

The Board scheduled its next meeting for April 2, 2007 at 7:00 p.m. at Town Hall.

9. Non-public Session

Motion by Chair Gehl to enter non-public session at 10:10 p.m. under RSA 91-A:3 II(b) to consider the hiring of a public employee; second by Selectman Rhoades.

A roll call was taken. Gehl- aye, Rhoades – aye, Bickford – aye.

The Board met with TA Whittaker and RA Fuller regarding the hiring of a new highway employee per the approval of Town Meeting.

Following discussion, the board returned to regular session, motion Gehl, second Bickford, vote 3 – 0.

The board returned to regular session. Motion Rhoades, second Bickford to approve and authorize the hiring of Leon Smith for the new position within the Highway Department per the terms and conditions of Town Meeting vote, vote 3 – 0.

Mr. Fuller advised that Mr. Smith would probably start work on April 9, 2007.

10. Adjournment

There being no further business, motion Bickford, second Rhoades to adjourn at 10:40 PM, vote 3 – 0.

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.