

New Durham Board of Selectmen
Minutes of Meeting ~ June 18, 2007
Town Hall

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

Also present: Town Administrator April Whittaker, Police Chief Shawn Bernier, Highway Department Supervisor Michael Clarke, Interim Fire Chief Rod Nelson, CEO/BI David Lindberg, Igor Badamshin, Thomas Beeler, Skip Fadden, George Gale, Mary McHale

1. Call to Order – Chairperson Ron Gehl called the meeting to order at 7:02 p.m. and led the Pledge of Allegiance.

2. Citizens' Forum – There was no input. The Board did, however, review a special event license for a roller ski race on Ridge Road sponsored by the Gunstock Nordic Association. Igor Badamshin explained the race would be held July 21, 2007 from 9:00 a.m. – 11:00 a.m., would cover approximately seven and one-half miles along Ridge and Valley Roads, and would involve an estimated 50 New England athletes over the age of 14. He thanked the police and fire departments for their approval of the event. Police Chief Shawn Bernier said the racers would stay to the right and one officer would be on duty to monitor traffic. Johnson's has offered parking space. Chair Gehl called the event a fantastic opportunity. Selectman David Bickford asked that the address of the promoter be on the application.

Motion by Chair Gehl to approve the special event license to Gunstock Nordic Association for a roller ski race on July 21, 2007; second by Selectman Bickford. Selectman Peter Rhoades requested posters to distribute town-wide to involve residents. **The motion carried unanimously.**

Mr. Badamshin asked for a suitable name for the race. Suggestions were New Durham Ridge Roll and Hill of Pain.

3. Public Appointments

Motion by Chair Gehl at 7:15 p.m. to enter into non-public session pursuant to RSA 91-A:3 II (d) to consider the issue of potential acquisition of real property. A roll call was taken. Gehl – aye, Rhoades – aye, Bickford – aye.

The Board met with Town Administrator April Whittaker, Meetinghouse Committee Chairperson George Gale, and Mary McHale. Discussion ensued regarding potential acquisition of real estate.

Motion Bickford, second Rhoades, to return to regular session, vote 3-0.

The Board resumed regular session at 7:45 p.m.

Motion by Chair Gehl to seal the minutes of the non-public session for a period of one year; second by Selectman Bickford. The motion carried unanimously.

Public Hearing:

Chair Gehl opened a public hearing at 7:46 p.m. concerning the use of a \$1,000 donation to provide for a flagpole in the Shirley Cemetery. TA Whittaker said the funds were originally accepted at a

public hearing at a Board of Selectmen's meeting on September 15, 2004 ~ copy of hearing produced. An anonymous donor provided the funds and the flagpole was to be in memory of the late Police Chief Douglas Scruton. Cemetery Trustee Michael Clarke said the donor, who would like something else accomplished with the money, if the flagpole were not constructed, contacted him. The Cemetery Trustees approved the placement of a flagpole in the far corner of the cemetery by Chief Scruton's grave. TA Whittaker and Financial Assistant Vickie Blackden did the appropriate research and uncovered the paperwork and funds.

Lighting of the flag was discussed. As there is no electricity available at the cemetery, solar light could be used or the flag could be removed each evening. Mr. Clarke said the fiberglass pole is 25 feet high with a three and one-half inch base, and the purchased flag is of military durability. Selectman Rhoades suggested a gold leaf ball at the top. During public comment, Skip Fadden pointed out the term for an outdoor flag is "all-weather flag." He offered to provide the Trustees with a copy of federal regulations regarding the flying of flags.

Selectman Bickford suggested flying the flag only on important occasions if there were concerns about lighting. Chief Bernier assured the Board that taking down the flag daily could be a duty for one of the police officers.

Motion by Selectman Bickford to approve the construction of a flagpole at J.C. Shirley Cemetery using donated funds up to \$1,000; second by Selectman Rhoades. The motion carried unanimously.

Motion by Chair Gehl to enter into non-public session at 7:55 p.m. pursuant to RSA 91-A:3 II (b) to consider the potential hiring of a public employee by the Chief of Police; second by Selectman Bickford. A roll call was taken. Gehl – aye, Rhoades – aye, Bickford – aye.

The Board met with TA Whittaker and Chief Bernier who discussed with the board a part-time officer hiring and a fulltime officer hiring in light of the resignation of Sergeant Hathcock. Following discussion, the board was agreeable to support the Chief's recommendation for a part-time hire subject to satisfactory background checks, and further supported the Chief's premise to proceed with an individual interviewed at the last round of officer hiring conducted in January 2007 with recommended checks per the Police Standards, and Training guidelines. The Chief pursued further discussion with his recommendation to promote Officer Lamontagne to Sergeant.

Motion Rhoades, second Bickford to return to regular session, vote 3 – 0.

The Board returned to regular session at 8:35 p.m.

Motion by Chair Gehl to proceed with the hiring process of a part-time police department officer, subject to positive background check; second by Selectman Bickford. The motion carried unanimously.

Motion by Chair Gehl to accept with great regret the resignation of Jamie Hathcock as Sergeant of the New Durham Police Department; second by Selectman Bickford. The motion carried unanimously.

Motion by Chair Gehl to proceed with the hiring process for a full-time officer position, subject to Police Standards and Training best hiring practices; second by Selectman Bickford. The motion carried unanimously.

Motion by Chair Gehl to support the recommendation of Police Chief Shawn Bernier to promote Officer Jason Lamontagne to Sergeant grade 9, step 1 per pay scale, commencing July 2, 2007; second by Selectman Bickford. The motion carried unanimously.

4. Department Reports

Police – Chief Bernier provided the Board with the agreement for public service dispatch service through Strafford County, saying it was identical to the past one. The Board will review it and advise Chief Bernier. The Board can authorize Chief Bernier to sign the agreement.

Chief Bernier also provided a breakdown of activity for May 2007. There were 42 arrests, 90 incidents, and under motor vehicles - 37 summons, 227 warnings, two accidents, and 354 property checks. Chief Bernier indicated there were several speeding incidents of speeds more than 20 mph beyond the posted limit.

TA Whittaker asked about “Stop Ahead” signs at the intersection of Valley Road and Ridge Road in light of recent accident and near accident activity. Chief Bernier said Road Agent Mark Fuller had spoken to him about painted stop lines. Chair Gehl urged residents to approach the intersection with caution. Mr. Clarke said RA Fuller had ordered “Stop Ahead” signs, and painting stop lines was in process.

Chief Bernier asked the Board to send a memo to boards and commissions in town regarding not parking on the road when meeting at Town Hall or the Library, and to park carefully in the Town Hall parking lot so as not to impede officers’ vehicles. Chair Gehl said reminders could be given at the beginning of meetings. Chief Bernier said parked cars must be off the pavement. He cited bottlenecks on Birch Hill Road, and cars blocking police officers leaving the Town Hall parking lot. He suggested people could park at the Post Office parking lot for evening meetings and walk through to Town Hall. Selectman Rhoades requested the Post Office be asked about encouraging use of that lot, and TA Whittaker indicated she would do so.

Mr. Clarke said he could get a “No Parking on Pavement” sign for Birch Hill Road.

Selectman Bickford felt that an ordinance is in place regarding the right-of-way and there could be a problem as some roads don’t have pavement. Mr. Clarke said it would only be for Birch Hill Road. Selectman Bickford indicated it was not possible to go against an ordinance regarding the 50-foot right-of-way. His concern was that such a sign would be stating people could park there. Chair Gehl said the Board could review the exact language of the ordinance. Selectman Bickford said he requested Town Clerk Carole Ingham supply the Board with all ordinances.

Highway – Mr. Clarke reported the grader was down but it should not be a money issue, as the Equipment Mechanic feels the problem is due to something done last time it was in. He said the new backhoe was on recall, but the Town had been provided with a free loaner.

Selectman Rhoades asked how RA Fuller fared with his neck surgery, scheduled for that evening. Mr. Clarke responded that there had been no word yet.

Building Inspector – Chair Gehl said CEO/BI David Lindberg had been busy with a variety of enforcement issues.

5. Administrative Review

TA Whittaker reported receipt of a letter from the Strafford Regional Planning Commission asking the Town to appoint a representative to the Technical Advisory Committee, which deals with transportation and transit providers and makes recommendations to the Metropolitan Planning Organization's Policy Committee. Chair Gehl said he believed RA Fuller was the representative on the TAC. TA Whittaker asked Mr. Clarke if he would serve, as he had the expertise. Mr. Clarke indicated he would, but would check with RA Fuller first. The item was put on the agenda for the next meeting.

TA Whittaker reported 159 dogs lacked the required license despite extensive advertising since April 1.

Motion by Chair Gehl to accept the warrant for unlicensed dogs as prepared by Town Clerk Carole Ingham; second by Selectman Rhoades. The motion carried unanimously.

TA Whittaker said owners are first notified, then the police follow-up. The Board signed the warrant.

The Board also signed a disabled tax exemption.

TA Whittaker advised the Board that the Recreation Director had successfully completed her six-month probationary period, and provided the recommendation and evaluation from the Parks and Recreation Commissioners to approve her pay raise ~ enclosed enveloped copies of the evaluation were handed to the board to be looked at in privacy given the confidential nature of the review.

Motion by Chair Gehl to approve the pay increase of Jessica Bailey to step 1, grade 8; second by Selectman Rhoades. The motion carried unanimously.

Shaws Pond : TA Whittaker announced the State Department of Safety would conduct a public hearing on the petition seeking a horsepower restriction on Shaw's Pond, limiting boat motor size to five horsepower, on July 2, 2007 at 10:00 a.m. at Town Hall. She said it would be important to get word about the hearing out in Copple Crown. Selectman Bickford said he would try to attend.

TA Whittaker provided the Board with information related to a complaint of the McKay pit area on tax map 21, lots 44 and 45, brought by John Crickett. She felt that the only area of possible enforcement may involve the camp trailers. The board noted that trailers or campers can only be on a woodlot while agricultural or timberwork is being done, and that they cannot be left for the summer season. The Board reviewed a draft of a letter responding to Mr. Crickett's concerns. Selectman Rhoades suggested the language regarding notifying Mr. McKay of the possible woodlot infraction be worded more clearly and strongly. Mr. Lindberg said this was the second year the camper has been there, and he spoke with Mr. McKay about it last year. He also said working a woodlot would not necessarily be actively cutting firewood, but could also include clearing underbrush at a tree farm. TA Whittaker noted that if enforcement were acted upon one person, all woodlots would need to be looked at. Selectman Rhoades said the purpose of a camper on a woodlot is to allow a person to live there while working the lot. He said that must have been the intent, or else everyone would have a trailer on their woodlot. He called allowing a woodlot to become a vacation home as unfair and not within the spirit of the ordinance.

Chair Gehl said the first step is to inform the party they may be in non-compliance with an element of the ordinance. Selectman Rhoades said the letter to Mr. Crickett should say the Town is moving forward. The Board agreed. Code Enforcement Officer Lindberg stated the worst thing the Town did

was to designate woodlots. Chair Gehl said he'd spoken with Mr. Crickett, who will be out of town until the end of June.

TA Whittaker gave copies to the Board of the legal response concerning the vacancy on the Planning Board. She said if the deadlock regarding filling the vacancy continues, with any harm to citizens as a result of it i.e. subdivision, site plan etc is withheld because of a tie vote, the Board would be required to go to Strafford County Superior Court for a court decision re an appointment most likely the longest serving alternate on the Planning Board. She added that the Planning Board requires a quorum of only three members, and their rules of procedure do not supersede state law.

Approval of Minutes

Motion by Selectman Rhoades to approve the minutes of June 14, 2007 regarding the generator acquisition, as amended; second by Selectman Bickford. Rhoades – aye, Bickford – aye, Gehl – abstained. The motion carried.

TA Whittaker read brief excerpts from the Community Health Profile, citing that New Durham is a young community with 30 per cent of the population between the ages of 35 and 54. She said the median (half above and half below) annual household income in the area is \$41,994, with New Durham's being \$52,270. She noted to the board that the information would be left in the Board's Informational folder.

6. Schedule Next Meeting – The Board scheduled its next meeting for July 9, 2007 at 7:00 p.m. at Town Hall.

7. Old Business

Mailbox placement - No information on mailbox placement at the Edwards/Lecoq subdivision has been provided.

Milfoil Committee - No other volunteers have come forward to serve on the Milfoil Committee. General consensus to wait until the Merrymeeting Lake Association Annual General Meeting.

Generator - Regarding the acquisition of a generator, Chair Gehl said the Board was awaiting a reply from Caterpillar. Mr. Clarke said he was looking at installing two generators, rather than one. He said that would not cause a problem with the grant. Selectman Rhoades pointed out that installing a generator at either the school or Town offices would cost more money than what is available. He said a decision must be made on the site of installation and it should be where it will prove most valuable. He voiced a need for citizen input. Personally, he thought keeping emergency services running would be valuable. Chair Gehl said the site should have practical benefit to the Town. Selectman Bickford brought up the study done regarding placement at the school. Selectman Rhoades said the study was on file with the school district, and he believed RA Fuller was looking into that. Mr. Clarke said more information on installation was forthcoming.

Betterment assessments – Chair Gehl said the Board received a legal opinion on betterment assessments regarding private roads, investigated due to concerns raised about Pine Point Road, Cedergren Way, and Lion's Camp Pride Way. He summarized Town Counsel's view as unfavorable from the town's perspective, and added that with the legal opinion, betterment assessments were not anything he wanted to pursue.

Motion by Chair Gehl to release the correspondence from Upton & Hatfield LLP dated June 12, 2007 to interested parties to review; second by Selectman Rhoades. The motion carried unanimously.

Boodey House Committee fundraising – In answer to one portion of Mrs. Orlowicz’s inquiries, TA Whittaker said her research on charitable contributions revealed that in 1994 the Town approved Selectmen to accept and expend unanticipated money, as well as the 1998 approval of Selectmen accepting gifts of personal property offered to the Town for any public purpose. Chair Gehl said it would be better to hold the discussion with Cathy Orlowicz, who brought up the question of fundraising and contributions, present. He said Town Meeting could vote to establish a trust fund. TA Whittaker pointed out that that route would restrict the Committee’s fundraising. She brought up the 501-C3 status of the Historical Society, noting that Non Profits have more grant money opportunities than a governmental unit. The item was placed on the agenda for the next meeting. Selectman Bickford asked about an expendable trust fund. TA Whittaker said there are expendable trust funds for the Town. It was clarified that the Town does not yet technically own the Boodey House.

Repair work – Mr. Clarke informed the Board that slope and shoulder repairs have not yet been done at the Chamberlin Way development. Chair Gehl said conditional approval was given the development, and that conditions must be met. Mr. Clarke said he would bring in exactly what has not been completed to the next meeting.

Town Beach – TA Whittaker said the raft float and ropes would be put out at the Town Beach on Thursday. Chair Gehl said the dredge and fill application to replace the sand would need to be submitted to DES. He said some retaining wall work would no doubt need to be done. Mr. Clarke said the Safety Committee has information on pre-cast structures.

Watershed Assistance Grant – TA Whittaker said Robert Craycraft applied for a Watershed Assistance Grant for the Conservation Commission, and that the Town’s 40 per cent match would be through in-kind labor, with volunteers i.e. no monetary outlay. Professional services would be paid for by the grant. She described it as an educational grant to heighten public awareness of the importance of riparian buffers as a means of mitigating the impacts of non point source pollution of water. Chair Gehl said he had reviewed the language. Selectman Rhoades said the total project cost is \$4,817.40. Chair Gehl said the grant provides support of awareness of the Water Quality Protection Ordinance recently passed. He cited some of the project tasks as being: buffer markers being laid out on the Meetinghouse Park property, creation of an educational Meetinghouse Park trail guide emphasizing water quality protection, a vernal pool workshop, a lake-friendly landscaping workshop, updates to the Town website associated with related information, mailing the trail guide to all residents, and developing a set of materials mailed to all new residents that would include the trail guide brochure and a link to the Conservation Commission’s web page. He said the application was time sensitive as the funds were disappearing. Selectman Rhoades pointed out that the dollar figures were switched on the application and needed to be corrected.

Selectman Bickford said he would not support the proposal as he felt the buffer zones went too far. He pointed out language in the application that said one of the intents was to build support for a stronger buffer that would expand a prohibition on cutting trees, and he was against that. Selectman Rhoades asked if he would attend some of the proposed educational workshops to see if he would change his mind. Selectman Bickford said he did not agree with the point of view stated in the application. Selectman Rhoades said the majority of the Town voted for the Ordinance. Selectman Bickford responded that he believed the public went just by the title, and may have

known little of the content. He said he thought the water quality could be served by using the 50 per cent basal area the state uses.

Chair Gehl said he agreed that stating an opinion in an application may not be appropriate, but he was uneasy making modifications without speaking with Mr. Craycraft. Selectman Rhoades said the grant was for education on what was voted on overwhelmingly at the last town meeting, and that the grant is to build on what 90 per cent of survey respondents said they wanted. Selectman Bickford said it was unnecessary to go to that extreme to achieve the goal. The Board removed the language concerning building support for a stronger buffer.

Motion by Chair Gehl that the grant proposal for the Small Outreach and Education Grant Program for Nonpoint Source Pollution, as amended, be submitted to the Department of Environmental Services; second by Selectman Rhoades. Gehl – aye, Rhoades – aye, Bickford – nay, vote 2 – 1. The motion carried.

8. Return to Department Reports

Fire – Interim Fire Chief Rod Nelson reported there were duty crews in place for Bikers' Weekend. He said he was working on getting members to commit to availability at night. He said the 1994 Engine 1 has a scored shaft, which runs the pump, resulting in a severe leak. It will cost between \$4,500 and \$7,000 to repair. He said he'd coordinated borrowing Meredith's engine while the pump is being fixed. He also reported a gas tank strap on the tanker rotted. He said training is continuing and praised the members of the department.

TA Whittaker said the duty crews for Bikers' Weekend performed their service gratis, costing the Town nothing. She expressed gratitude.

9. Approval of Minutes

Motion by Selectman Rhoades to table consideration of the minutes of June 4, 2007; second by Selectman Bickford. The motion carried unanimously.

10. Any Other Business

TA Whittaker brought up last year's state inspection of Camp Birch Hill, and said this year's report will indicate if corrective actions were followed through. The Board will review the report.

11. Adjournment

Motion by Selectman Rhoades to adjourn the meeting at 10:16 p.m.; second by Selectman Bickford. 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.