

**New Durham Board of Selectmen**  
**Minutes of Meeting ~ December 10, 2007**  
**Town Hall**

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

**Also present:** Town Administrator April Whittaker, Police Chief Shawn Bernier, Road Agent Mark Fuller, Sgt. Jason Lamontagne, Solid Waste Facility Manager Joseph Bloskey, Interim Fire Chief Rod Nelson, Robert Craycraft, Skip Fadden, Gigi Giambanco, Sam Hardy, Elizabeth Kuzia, Stan Kuzia, Cathy Orlowicz, Fred Quimby

**1. Call to Order** – Chairperson Ron Gehl called the meeting to order at 7:06 p.m. and led the Pledge of Allegiance.

**2. Citizens' Forum** – There was no public input.

**3. Department Reports**

*Police* – Sgt. Jason Lamontagne presented the Board with the November activity report. He noted four drug violations, 21 motor vehicle summons, and four accidents. There were 362 property checks, 73 calls for service regarding criminal and other activities, with a total of 18 arrests. He indicated there were two cruelty to animal situations and Police Chief Shawn Bernier added that in cold weather, any outside animal must have at least a three-sided shelter and access to water.

Chief Bernier briefed the Board regarding several grants available from the State Highway Agency, including up to \$2,500 toward a digital video system, a 50 per cent match for two spike strips, and DWI and motor vehicle grants that would fund speed details anywhere in Town, not just on state roads.

Selectman Peter Rhoades brought up that New Hampshire was the third lowest in the country for receiving grants for Emergency Management and Emergency Communications. He suggested looking into available money, and upcoming increased funds, for upgrading emergency communications.

**Motion by Chair Gehl to appoint Sgt. Jason Lamontagne as the Board's representative of New Durham to the Northern Strafford County Health and Safety Council; second by Selectman David Bickford. The motion carried unanimously.**

The Board duly signed the appointment form and Chair Gehl swore into office, Sgt. Lamontagne.

Selectman Bickford asked about having the Emergency Operations Center (EOC) over the garage. Sgt. Lamontagne stated an EOC could be over a room where vehicles are stored per his conversations with Emergency Management State personnel. He noted the far wall would have to be knocked out to use the upstairs as an EOC, as the room currently is too small due to the shape of the ceiling.

*Highway* – Road Agent Mark Fuller indicated, due to the recent bad weather, that his department may be short of salt and would need to purchase some.

*Solid Waste Facility* – Manager Joe Bloskey reported that the waste oil burner was working.

#### **4. New Business**

Sam Hardy, a member of the Solid Waste and Recycling Advisory Committee appointed in 2002 by Selectmen Dean Stimpson, Paul Gelinis Jr., and Phil Kenney, spoke to the Board regarding the entryway widening at the Solid Waste facility. He said the recommendations of the committee included an entryway width of 30 feet and reduced curvature. Passage of Article IV of the 2003 Town Warrant, which included making improvements to the layout of the facility as recommended by the Solid Waste and Recycling Advisory Committee, indicated support of that by the voters. He said the improvements to the entry and gate have not been made and asked if the Town would honor the findings of the Committee. He stated that he was aware that the current board was not in place at the time that the improvements had been suggested.

Chair Gehl observed that the article was a one-year appropriation, so any money not used reverted to the Town's General Fund. Mr. Bloskey said he was unaware of why the work was not done. RA Fuller said he thought the money had been spent. He pointed out that a 23-foot entry slows traffic. Selectman Rhoades asked if a 30-foot wide entry was possible and RA Fuller replied that it was not. He said removing the gate and repaving could gain four or five feet. He said widening would not take out the curve. Mr. Hardy said the Committee wanted the gate on the left moved over and back, to allow a 30-foot wide entry. He stated all the other recommendations were carried out but this one. He thought the work was to be done in conjunction with resurfacing; but during the recent resurfacing, the work was not carried out. RA Fuller said the resurfacing widened the approach on the right.

Chair Gehl suggested the Board take the issue under advisement. Mr. Hardy asked about the Board's commitment. Selectman Bickford said the entry could do with some widening. Mr. Bloskey expressed his concerns that widening the area would result in faster vehicular access. RA Fuller reiterated Mr. Bloskey's comments, and explained that his department members could not work in the area or back up trucks. He said it was necessary to slow down the traffic. Selectman Rhoades asked Mr. Hardy if the Committee had considered speed, and Mr. Hardy replied it had not. Selectman Rhoades inquired about speed bumps which garnered a mixed response.

#### **5. Old Business**

The Board discussed the request to consider accepting the McKay Sandpit Road, a private road off the end of North Shore Road used to access residences on Pine Point Road, as a public, Town-maintained road. Chair Gehl noted correspondence from the Planning Board and Arthur Hoover, Charles McKay's attorney. Stan Kuzia presented a review of the Planning Board's recommendations to the selectmen, arguing that the request does not come from a single citizen, that the roadway is not a McKay family roadway but has been used by the general public since 1981, and that the McKay's attorney has not advised closing the road. He said that in a second letter to the Board, Mr. McKay offered an alternative free roadway through the pit. He went on to rebut other Planning Board objections by saying the road maintenance would not be an undue burden on taxpayers as the road is only 300 yards long, that traffic would not increase to the degree anticipated by the Planning Board, and that it would be inexpensive to upgrade the road to Town standards.

Chair Gehl suggested taking off the table the issue of no emergency access if the road were gated, as several roads in Town are gated and the fire and police have full access through arrangements with owners, such as possessing keys, etc. Mr. Kuzia said if he had to get someone to an emergency room or flee a forest fire, he would not want to have to look for a key or cable cutters. Mr. Gehl pointed out that it would be beneficial to the McKay's to have the road be a Town road thus

alleviating the burden of maintenance. Mr. Kuzia said the Pine Point residents agreed that the best idea was asking for acceptance of the road, and therefore had not pursued the concept of being given keys by the McKay's.

Selectman Bickford said there was some confusion at the Planning Board meeting regarding where the road actually begins and ends. The Board consulted a Town map and agreed that the road was 300+ yards.

Selectman Bickford advised he did not favor accepting the road. He said there were other ways besides a layout for the Pine Point residents to get what they wanted, rather than the Town taking over the road.

Selectman Rhoades said he was against the Town taxpayers having to bear the burden of bringing the road up to Class V standards. He said it would not be fair to those on Class VI roads that are not Town maintained, he included, to upgrade a private road. He said if an alternate roadway was put in and paid for by the Pine Point residents, he would be supportive, but the cost of the road's upgrade should not be borne by the Town.

Chair Gehl pointed out that although the Board had the authority to layout a road, the normal route is through the Planning Board subdivision approval process. He outlined three issues that made supporting the proposal difficult for him:

- 1.) Broader development and planning issues inherent with converting a private road to Class V, which would include maintenance and creation of new road frontage whereby woodlots could become building lots in an area according to the Master Plan not suitable for denser population.
- 2.) Engineering issues, as portions of the road have grades far in excess of subdivision regulations.
- 3.) Setting a dangerous precedent, as there are many Class VI and private roads in town that could then come forward for Town acceptance. Chair Gehl said there has been recognition on part of the property owners who built along those roads that the Town would not maintain them.

Selectman Bickford indicated other roads in town are locked in. He asked if it were possible to add to a cul-de-sac road. Selectman Rhoades said the Planning Board was considering cul-de-sacs up to 1,500 feet. Chair Gehl suggested the Pine Point residents explore forming an association and work with the McKay's for access, as well as petition Town Meeting for a layout and acceptance process. Selectman Bickford suggested asking the McKay's to sell the road to the association and grant him right-of-way, to remove liability from his part.

Mr. Kuzia asked how the road was ever part of a Planning Board approval. Chair Gehl said the roadway was never intended as an access to residences; rather, just a couple of parcels. He said beyond the current paved portion, it would not be approved. He told Mr. Kuzia these kinds of situations are best addressed by a homeowners' association. He encouraged Mr. Kuzia to work with his neighbors on alternate access. Selectman Bickford said it was hard enough to keep up with the current slate of Town roads, as well as being expensive to maintain.

**Motion by Chair Gehl to not proceed with the layout and acceptance process regarding the McKay Sandpit Road; second by Selectman Rhoades. The motion carried unanimously.**

The Board advised Mr. Kuzia that the Town Administrator would assist in drafting a petition article should he wish to pursue this route for a town meeting vote.

#### **6. Administrative Review**

Chair Gehl said Cecile Chase was resigning as Deputy Treasurer as she now serves as chair of the Budget Committee, and sees a possible conflict.

**Motion by Chair Gehl to accept the resignation of Cecile Chase as Deputy Treasurer with regrets; second by Selectman Bickford. The motion carried unanimously.**

Town Administrator April Whittaker said Ann Brady had been recommended by Ms. Chase as a nominee to fill the position of Deputy Treasurer. The Deputy fills in as Treasurer approximately twice a year. Chair Gehl said Ms. Brady would be considered.

**Motion by Chair Gehl to reappoint Rod Nelson as a Deputy Forest Warden; second by Selectman Rhoades. The motion carried unanimously.**

**Motion by Selectman Bickford to appoint the chairperson as signatory for the resolution agreement for joining the Local Government Center's Workman's Compensation Program; second by Selectman Rhoades. The motion carried unanimously.**

Chair Gehl said Paddy McHale was resigning from the CIP Advisory Committee as he had been appointed an alternate on the Planning Board and wished to avoid any appearance of conflict of interest. He stated the Town owed Mr. McHale a debt of gratitude for his efforts in bringing the CIP forward.

**Motion by Chair Gehl to accept the resignation of Paddy McHale as At Large Member of the CIP Advisory Committee with regrets; second by Selectman Rhoades. The motion carried unanimously.**

The Board signed the survey/plan scanning services contract with Cartographic Associates, Inc. regarding the subdivision scanning.

Chair Gehl said CMA Engineers, Inc. are prepared to go out to bid at the end of the week for the March's Pond Dam project. The Dam Bureau has written CMA regarding the lack of documentation of five years engineering experience on dam projects. Chair Gehl said the issue would not affect costing.

TA Whittaker presented her memo indicating the new website is expected to be live for the New Year and the progress to date at the new website located at <http://newdurhamnh.virtualtownhall.net>.

#### **7. Schedule Meetings**

The Board scheduled its next meeting for **December 17, 2007 at 7:00 p.m. at Town Hall.**

The Board scheduled a budget workshop for **December 19, 2007 at 6:00 p.m. again at the Town Hall.**

## 8. Old Business

### **Motion by Chair Gehl to continue consideration of the investment policy to the meeting of December 19, 2007; second by Selectman Bickford. The motion carried unanimously.**

*Bennett Road Pole Relocation* – Selectman Rhoades recused himself for the discussion. TA Whittaker said the New Hampshire Electric Cooperative is disputing whether the pole in question is actually in the right-of-way. She said they define the right-of-way as a lane plus six feet in width, but do not offer a definition of “lane.” The NHEC indicated the pole is seven feet from the center of the right-of-way and therefore on private property. Chair Gehl said the NHEC has not provided clarification of the width of a lane. Mr. Rhoades said he emailed NHEC, requesting elucidation, specifically if a lane is considered six feet, and the response he received did not address that question. He said NHEC wrapped the pole in red, which indicated to him that the pole was seen as a safety issue. Chair Gehl asked TA Whittaker to make a formal request on the Town’s behalf for the definition of a lane. Selectman Bickford said NHEC cited the State of New Hampshire’s database, and he wondered what specifically that was. TA Whittaker said she would request back-up documentation from NHEC. Mr. Rhoades rejoined the Board.

The Board discussed the final copy of the Ethics Ordinance as prepared by the Ethics Committee. TA Whittaker described the Committee’s work as sterling given the degree of difficulty. Chair Gehl expressed thanks to all members of the Committee under the chairpersonship of Cecile Chase. Selectman Bickford said he could not support the Ordinance, due to section A 2 ii, regarding businesspeople serving on boards, and also, representing clients’ before said board. Chair Gehl said the advisory committee addressed that issue in much of their deliberations.

**Motion by Chair Gehl to accept the recommendations of the Ethics Advisory Committee and move the revised Code of Ethics to Town Meeting; second by Selectman Rhoades.** Selectman Rhoades question fellow Selectman Bickford as to why he was against the Ordinance. Mr. Bickford said working for the Town and earning money in town was the primary issue at the 2007 Town Meeting. He said Don Voltz spoke about wanting to serve the Town and still do business in town. He said the Town would miss those people’s expertise. He added that if there were more volunteers for positions on boards, he would support the Code of Ethics. Chair Gehl said it was a misconception that doing business in town would prevent serving on a Town board. He said the Code states that public servants on a particular board may not represent a client to that same board. He said the distinction must be clear. **Gehl- aye, Rhoades – aye, Bickford – nay. The motion carried.**

## 9. New Business Continued

The Board reviewed a draft Zoning Ordinance proposal regarding outdoor storage of used or dismantled items and materials. Chair Gehl said he was in favor of bringing the proposal forward, but requested some definitions to be clarified. The Board agreed to finalize the proposal at the next meeting. Selectman Bickford brought up some exemptions needed for farmers.

Regarding the Board’s mission statement, Selectman Rhoades presented three paragraphs he composed on the subject. He encouraged synergy among Town departments and boards, directing budget concerns to follow the Master Plan, and fostering a spirit of volunteerism and interest. The Board took the matter under advisement.

## 10. Approval of Minutes

**Motion by Selectman Bickford to approve the minutes of November 19, 2007 as amended; second by Selectman Rhoades. The motion carried unanimously.**

**Motion by Selectman Rhoades to approve the non-public minutes of November 19, 2007 as written; second by Selectman Bickford. The motion carried unanimously.**

Chair Gehl explained the emergency meeting of November 20, 2007 was to take action on quotes for workman's compensation to address Primex's deadline.

**Motion by Selectman Rhoades to approve the minutes of the emergency meeting of November 20, 2007 as written; second by Selectman Bickford. The motion carried unanimously.**

**11. Non-public Session**

**Motion by Chair Gehl at 9:21 p.m. to enter non-public session under RSA 91-A:3 II c for the purpose of discussing tax deeding issues, and property owner's payment plans; second by Selectman Rhoades. A roll call was taken. Gehl – aye, Rhoades – aye, Bickford – aye.**

The Board returned to regular session at 9:50 PM.

**Motion Rhoades, second Bickford to forestall the deeding process on the two properties discussed in Non Public session and support the payment plans for the properties in question, vote 3 –0.**

**12. Adjournment**

**Motion Bickford, second Rhoades, to adjourn, vote 3 – 0.**

The meeting adjourned at 9:51 PM.

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.