

New Durham Board of Selectmen
Minutes of Meeting ~ April 7, 2008
Town Hall

Members present: Peter Rhoades, Ronald Gehl, David Bickford

Also present: Town Administrator April Whittaker, Police Chief Shawn Bernier, Road Agent Mark Fuller, Jagger Bernier, Kristin Bernier, Marcia Berry, Elizabeth Cantrall, Mike Davenport, Kent Davis, Wendi Fenderson, Mike Gelinas, Gigi Giambanco, Ken Haskell, Terry Jarvis, Larry Johnson, Paula Johnson, David Morrow, Michelle Morrow, Robert Menot, Dan Nebesky, Dean Nicholson, Cathy Orlowicz, Kevin Ruel, Leon Smith, Tom Swett, Katja Vanderhoof, Terri Winters, Katie Woods, other members of the public

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

2. Citizens' Forum – Cathy Orlowicz wanted confirmation that the Board received the information regarding placement of veterans' names on the monuments. She also presented Crissa Evans as a candidate for voting member of the Boodey House Committee, in the wake of Diane Thayer's resignation. Ms. Evans has been serving as a non-voting member.

Selectman Ron Gehl asked if members needed to be residents, and Ms. Orlowicz said that was not stipulated in the committee's charge. Chair Rhoades noted the two-week vetting period. Selectman David Bickford asked why Ms. Evans had been a non-voting member in the past. Ms. Orlowicz explained she was a member of the family that owned the house, but now that the Town owned the building, the committee saw no conflict.

Elizabeth Cantrell asked about individual mailboxes in the Chamberlin Way development. She said she had received the survey sent out by the Town, and that she and her neighbors had questions. She asked what was wrong with the road that it could not sustain curbside delivery. Chair Rhoades pointed out that the matter was listed on the agenda under Old Business and Citizens' Forum was for matters not on the agenda, but he added that many people in the audience were attending to discuss this, so he would hear it now. He said curbside delivery would require a shoulder at each home, all paved at the same quality and the cost to be borne by the homeowners. Ms. Cantrell pointed out that Chamberlin Way is wider than most other roads in New Durham. Chair Rhoades explained the road was not built to mailbox standards. He said it appeared her question would not be answered quickly, and said it would be held for Old Business.

3. Public Meeting

Parks and Recreation Commissioner Marcia Berry spoke briefly on the walking path, saying the grant has been awarded, but not officially. Sheri Joy is forwarding pictures to submit for the grant process. Town Administrator April

Whittaker said an eagle is in the area, and the Commission is waiting on NH Fish and Game to make a decision. Mike Gelinis advised that the proper person is now receiving the paperwork. He said the grant was received two years ago and is good for two years. Chair Rhoades said Fish and Game should be aware of the urgency of the timing.

Ms. Berry reported that Nancy Bavers resigned, and the Commission needs to replace her. There is another vacancy left after Bonnie Dodge's resignation. She said Wendi Fenderson and Kristin Bernier have come forward to serve.

Ms. Bernier said she has energy and candor, and wishes to give back to the community. She said New Durham is known for its great recreation program, and she likes seeing families together and seeing the Town provide kids with a positive outlet. Selectman Gehl noted she was a great coach. Ms. Fenderson said she grew up in town and her parents served on the Recreation Commission. She also wanted to give back to the community.

Chair Rhoades stated the two-week waiting period. He said both women seemed motivated. Selectman Bickford asked how many people applied. Ms. Berry said only these two, and that the positions needed to be filled quickly for an upcoming meeting whereby there was a strong possibility of a lack of quorum. Chair Rhoades wondered why more parents did not apply. Ms. Berry said some coach and don't want to do both, or feel that they don't have time. Selectman Gehl asked if the Commission was in a situation where there were quorum issues, so the Board might act on the nominations tonight rather than waiting two weeks. Ms. Berry commented that baseball season was about to start. She indicated only three members would be in attendance at tomorrow night's meeting. Chair Rhoades said the Board should move forward on the issue.

Motion by Selectman Bickford to waive the two-week vetting policy; second by Chair Rhoades. Rhoades – aye, Bickford – aye, Gehl – abstain. The motion carried.

Motion by Chair Rhoades to accept the resignation of Nancy Bavers from the Parks and Recreation Commission effective March 11, with regret; second by Selectman Bickford. Rhoades – aye, Bickford – aye, Gehl – abstain. The motion carried.

Motion by Chair Rhoades to appoint Kristin Bernier to fill one of the vacancies on the Parks and Recreation Commission; second by Selectman Bickford. Rhoades – aye, Bickford – aye, Gehl – abstain. The motion carried.

Motion by Chair Rhoades to appoint Wendi Fenderson to fill one of the vacancies on the Parks and Recreation Commission; second by Selectman Bickford. Rhoades – aye, Bickford – aye, Gehl – abstain. The motion carried.

Chair Rhoades swore in Ms. Bernier and Ms. Fenderson.

Selectman Gehl stated each selectman had inquired of certain board members if they had interest in renewing their terms. He mentioned that both Larry Prelli and Bill McGrew agreed to be reappointed.

Motion by Selectman Gehl to reappoint Larry Prelli to a three-year term on the ZBA; second by Chair Rhoades. The motion carried unanimously.

Motion by Chair Rhoades to reappoint Marcia Berry as a member of the Parks and Recreation Commission; second by Selectman Bickford. Rhoades – aye, Bickford – aye, Gehl – abstain. The motion carried.

Chair Rhoades swore in Mr. Prelli and Ms. Berry.

Motion by Chair Rhoades to reappoint Paula Gehl to the Parks and Recreation Commission; second by Selectman Bickford. Rhoades – aye, Bickford – aye, Gehl – abstain. The motion carried.

4. Department Reports

Police – Police Chief Shawn Bernier reported that the cut-off date for hiring a new officer was April 14, 2008. He added that the 1999 cruiser has been taken off-line and is at the Town Shed, stripped of equipment to be used on other vehicles. Chair Rhoades asked if a selectman could be involved with the oral board and the Chief said yes. Selectman Bickford asked how long the department advertised for a new officer, and the Chief replied about two weeks. He said the oral board would be comprised of Sgt. Jason Lamontagne, a police officer from another town, and a selectman. Chief Bernier said he would conduct the final interview. Selectman Gehl said some towns have the Town Administrators sit in on the oral board, and Chair Rhoades said that should be discussed. Both Chair Rhoades and Selectman Gehl have served on the oral board before. Selectman Gehl said he would welcome Selectman Bickford's input.

Highway – Road Agent Mark Fuller said the Town needed to consider going to an electronic system for more accurate monitoring at the fuel pumps, citing an example that a large amount of gas is unaccounted for because someone forgot to write it down. He said now that the snow is receding, damage on personal property is showing up and he was getting complaints. He stated almost all of the damage was due to the amount of snow that had to be pushed back. He cited a large bush in a pot and a fence that were destroyed. He suggested taking it case by case would draw out the process. Chair Rhoades said if the department has been following best practice, it is just a question of Mother Nature. Selectman Gehl pointed out it would be valuable to maintain a register of complaints. He concurred that it was an extraordinary winter and anything damaged was out of sight. Chief Bernier stated there was no criminal intent, and that because of all the snow, the drivers couldn't see personal property. Chair Rhoades said it was unlikely the Board would authorize payment for damages. RA Fuller said he would keep a list of complaints.

Building Inspector – Assistant Building Inspector Dan Nebesky said the Town would need to look into getting a Building Inspector, as both his and the other

deputy's personal and professional lives are being affected. He added that they are not up to speed on the new laws.

Fire – IPO Tom Swett said the fire department formed a committee to research trucks and review options, after the Town Meeting passing of an article to purchase a vehicle. Seven vendors were contacted regarding a new truck, and 12 to 15 for a used vehicle. None hit all the points (age, specific equipment) the department wanted. The department sent out specs and only one company responded, Ferrara, offering a new 2006 chassis. Lt. Swett said the company would hold the bid for two weeks. After that, the less expensive 2006 chassis will be gone and the price would increase by \$18,000, putting a vehicle out of the department's price range. He said if the Board agreed the purchase fits the spirit of the warrant article, it could waive the bid process. He added that the Town Mechanic recommended the 2006 chassis.

Selectman Gehl clarified that the Fire Truck Committee solicited bids from seven vendors for a new truck, and 12 for a used. Mike Davenport said none of the 12 met the committee's criteria. Chair Rhoades asked how the Board would know this truck is the right value, and Lt. Swett said the committee had empirical evidence. He explained that most of the other companies said they would not touch it for that price. He described the reconditioned vehicle as a high mid-range truck, with a new chassis with good components. He cited the company's excellent service record. He told the selectmen he would feel more comfortable discussing the issue after they reviewed the information packet provided. Chair Rhoades said he understood it was an opportunity the Town would not want to miss. Lt. Swett said the bid price was good for two weeks. Chair Rhoades added discussion of the vehicle with the fire department to next week's agenda, which was originally slated to be only a non-public session.

Drawing upon personal experience with Central Fire Apparatus, Ken Haskell stated it was a good deal. Katie Woods asked if the Town had not voted on acquiring a used truck. Lt. Swett said he mentioned at Town Meeting that a new truck was also on the table. He explained that the capital reserve fund, explicitly for new vehicles, should be built up with enough money for a cash purchase and that using that fund for this purchase would have depleted it. Selectman Gehl said he reviewed the language of the warrant article, and that a new vehicle was preferable to a used one that doesn't meet the department's specs. He called it a practical matter. Chair Rhoades said the wording of the article was left open because it was thought that the only way the Town could acquire a vehicle was for it to be used.

Selectman Bickford said he presented the article at Town Meeting and discussed a used vehicle because that's all he had heard about. Mr. Davenport said there was no intent to misrepresent. He added that the last page of the presentation featured a new truck. Larry Johnson asked if the financing was the same, and Lt. Swett said yes. Chair Rhoades said the Board would review the information and discuss it with the committee next week.

5. Old Business

The Board returned to the matter of mailboxes on Chamberlin Way. Ms. Cantrell clarified she was not a representative for the neighborhood. She said she saw no problem with the road, compared with other roads, and did not see why the residents in the development cannot have mailboxes. She said she wished the Town would disengage itself from the issue so that the residents alone could deal with the Post Office. She said the Town is butting in and cited that the Town photocopied the letter sent her by the Post Office and sent it out to her neighbors.

Chair Rhoades said the Post Office routinely asks the Road Agent's opinion. He explained that the Planning Board agrees to road standards, and that therefore the standards of Chamberlin Way are different from other roads because it is new. RA Fuller said this was not an attack on Chamberlin Way. He stated that part of his job is to find maintenance problems, and that newspaper and mail delivery erodes the road and shoulder. He said the Post Office then calls the highway department about this erosion and asks to have it filled in. He indicated he asked the Planning Board for cluster boxes to avoid that problem and expense, and that the Planning Board spoke with the Post Office. He said he wanted to keep the shoulders in good shape, so a shoulder apron was necessary at a cost of \$400-\$500. He added that he told the Post Office mail delivery could not take place when the houses in the development were under construction.

Chair Rhoades said the Town is trying to keep the road in good repair. Selectman Gehl pointed out that typically the Post Office prefers cluster boxes, and that is what was presented on the plans at the Planning Board. He said that would not, however, affect subsequent petitioning. Ms. Cantrell said the boxes provided are not cluster boxes, according to the Manchester Post Office. Selectman Gehl said there were hundreds of mailboxes in town like that. He said the actual construction of the cluster boxes was not part of the plan before the PB, and that it is not the Town's responsibility to construct them. He told Ms. Cantrell the Post Office provided the Town with the copy of the letter it sent her.

TA Whittaker advised that the Town was trying to assist the residents of Chamberlin Way by facilitating the issue with the Post Office. She said the intent was only to be a helping hand, and to make the residents aware of the obstacles. She said this was the first situation the Planning Board had with cluster boxes, and the Town's goal was to open the door so the Post Office would reconsider its decision to deny curbside delivery. TA Whittaker apologized if the Town's efforts had been misunderstood by the residents and explained that the Town was trying to determine how it could help the residents get what they want. She said if they did not want the Town's help, then she understood.

Mr. Haskell stated the developers should bear the cost of paving suitable for curbside delivery. Chair Rhoades said that would have to be brought up to the Planning Board, as each subdivision is approved individually. He went on to clarify that the interest accrued on the bond is insufficient to cover the apron pavings as would be needed to facilitate curbside delivery, and that the topcoat

is applied after the majority of house construction is complete. He said the developer has already paid half of the increase in paving prices since the subdivision approval.

Mr. Nebesky stated the cluster boxes structure was temporary when the development came forward. He said the Postmaster said RA Fuller told the Post Office that the road was not up to par. RA Fuller pointed out that a road must meet both local and USPS standards. Mr. Nebesky asked if all residents in town will be asked to pay for aprons. RA Fuller said Chamberlin Way was a new subdivision. Mr. Nebesky said not to use Chamberlin Way as a guinea pig. He said it was not disclosed to buyers that they would have to pay for an apron. Selectman Gehl said the fact that a mailbox at every home was not on the plan does not mean it was not discussed. Mr. Nebesky said Chief Bernier is against cluster boxes, so how could the Town recommend cluster boxes for 21 residents. Chair Rhoades cautioned against the use of "recommend," and stated cluster boxes were approved. Selectman Gehl said the Post Office was clear it was against individual boxes and the Board tried to help. Ms. Cantrell said the Post Office was acting per RA Fuller's recommendation. She said she could pursue the matter further with the Post Office. Mr. Nebesky said, since the residents paid taxes, it was hard to swallow having to pay for the aprons.

Dean Nicholson pointed out there was no apron at the cluster boxes site. He said it was not safe to leave mail there. Chair Rhoades said the residents wanted to deal with the Post Office themselves, and that the Town needed to ensure that RA Fuller can clear the road in winter. Selectman Gehl said curbside delivery was likely to cause maintenance headaches, and that the physical damage would cost everyone in town.

Selectman Bickford said RA Fuller expressed his preference to the Planning Board, and Selectman Bickford assumed the Post Office has used that as an excuse. He said this Board had no position on the matter. He summarized that the residents are asking the Board to either tell RA Fuller to withhold his opinion, or to tell the Post Office it is a suitable road for mailboxes.

Michelle Morrow asked who is responsible for clearing snow from the cluster boxes, and was told the residents are. David Morrow said he plows the area and the Town plows snow back in. Chair Rhoades explained that is a common problem for both cluster boxes, which he and Selectman Gehl have, and individual boxes.

Mr. Johnson said the residents were given the go-ahead to deal with the Post Office, and that RA Fuller did them harm by conveying that the road is sub-standard. He said RA Fuller went as a representative of the Town and stopped the residents from getting mail delivery. He said there is no policy that states a shoulder apron must exist. Chair Rhoades said maintenance and therefore safety is affected if mailboxes are not installed properly, so the road agent's opinion should be sought. He said he did not think RA Fuller could call the Post Office and tell them to do whatever the residents or the Post Office wants.

More discussion of the matter followed. RA Fuller again explained that he tried to alleviate maintenance problems by asking the PB for cluster boxes, and he had to start somewhere. Selectman Gehl said the decision seemed practical at the time, and was not made with malice. Selectman Bickford said the residents were essentially saying, why start with us, when the Town repairs all the other roads. He said there was no policy stating cluster boxes. Selectman Gehl stated the road, owned by all residents, is an asset to the Town, and repairs would be inevitable. He ascertained that the Board has no feedback from the residents through the survey sent out by the Town, and that the Chamberlin Way residents in attendance feel they should not have to pay for aprons, and that they wish to pursue the matter with the Post Office by themselves. He said the Board does not have to act. Selectman Bickford said RA Fuller spoke as an official and that is being acted upon. He said the Board would have to supercede the position that the Post Office is using as an excuse.

Motion by Selectman Bickford that the Board of Selectmen has no objection to curbside mailboxes in the Chamberlin Way development, including the roads Chamberlin Way and Hilltop Circle; second by Selectman Gehl. Chair Rhoades asked about an amendment stating as long as they are placed to preclude erosion of the road. Selectman Bickford said that could not be done. **Rhoades – nay, Gehl – aye, Bickford – aye. The motion carried.**

Mr. Haskell asked if the road agent was appointed or elected. Selectman Gehl said the Board appoints the position and the road agent is an employee of the Town.

6. Administrative Review

Quote process - TA Whittaker provided the Board with information on the quote process being sought for Property and Liability Insurance.

Long Term Debt Issuance – TA Whittaker said she started the application to the bond bank. She said the commitment is made in May, and the rate disclosure is in June.

Smitty's Garden Trust – TA Whittaker said, regarding the question brought up at Town Meeting concerning using this fund for maintenance and repair, that it appeared it could only be used for recreation programming, as it does not mention repair. Selectman Bickford said he disagreed with that interpretation. Selectman Gehl suggested Town Counsel's input. Ms. Orlowicz said there was history of using that fund for maintenance. Mrs. Whittaker will follow up with Town Counsel.

Copple Crown Road Designations – Selectman Bickford brought up roads in the Village District. Selectman Gehl said it was not the Board's business, as it is not involved in governance of the Village Precinct. Discussion followed regarding Mountain Drive. Selectman Gehl said the dispute between the Town and the Village District over the building permit approval process established the parameters of the Board's involvement. He said the Town addressed lots there as being built on private roads under advice of Town Counsel.

Chair Rhoades said paper roads no longer exist if not graveled within 20 years. Selectman Gehl said recognition that a paper road provides access allows the road to be regarded as a private way. Selectman Bickford asked who owned the private roads.

Regarding the lot before the Board for consideration, the survey provided does not show the lot in question. Chair Rhoades asked for a legal opinion on paper roads, and the proper survey.

Notice of Award Form – Selectman Gehl said the notice of award form acknowledges that the successful bidder for the March's Pond Dam Reconstruction knows the requirements and specs.

Motion by Selectman Bickford to authorize the chairperson as signatory of the Notice of Award Form to DBU Construction; second by Selectman Gehl. The motion carried unanimously.

Chair Rhoades signed the notice of award form to DBU Construction of Epsom, NH for an adjusted bid price of \$463,600.

Fire Department Payroll Policy Approval – The Board had questions regarding the payroll, but Deputy Chief Peter Varney was not in attendance.

Motion by Chair Rhoades to move forward with payment to the Fire Department for first quarter payments based on the proposed payroll policy, without approval of that policy and with clarification of that policy during the meeting two weeks hence; second by Selectman Bickford. The motion carried unanimously.

Request for Use of Town Vehicle – TA Whittaker said a request has been made for the Animal Control Officer to use the 1999 soon to be decommissioned police cruiser. Town Mechanic David Valladares would recommend the 1999 Crown Victoria for that, if used regularly. The vehicle would need a kennel installed. ACO Leon Smith said he was currently using his personal vehicle to transport animals to Cocheco Valley Humane Society, which was causing problems. Chair Rhoades asked about using a trailer, so animals would not have to be in Mr. Smith's car. Chief Bernier was unaware of any restrictions concerning trailers. TA Whittaker said Mr. Valladares believed the vehicle could be used for a year. Selectman Bickford liked the trailer idea, but TA Whittaker pointed out that no money had been budgeted for the trailer acquisition. She said the Town currently pays Mr. Smith mileage, so there would be money for gas out of the mileage line. Chief Bernier and RA Fuller discussed Mr. Smith's availability.

Motion by Chair Rhoades to approve the use of the 1999 cruiser by the Animal Control Officer for a year; second by Selectman Gehl. The motion carried unanimously.

Proposed Contract with Cocheco Valley Humane Society for Animal Shelter Services – Chair Rhoades pointed out that the Town would have no idea of how

high the costs incurred might be. Chief Bernier said the majority of owners reclaim their animals, so the Town would be reimbursed, but that the Town was responsible initially for costs. TA Whittaker said the way the contract is written, the Town would become the collection agency. Chair Rhoades said he did not know how to proceed, but did not feel comfortable signing the contract because there was no way to control costs. TA Whittaker said there was no way to audit what might be charged based on the historical sheet as enclosed with the proposed contract. Chief Bernier is to check other towns' reactions to the proposed contract and to speak with the SPCA in Stratham. The Board will discuss the item in two weeks.

Informational Items – TA Whittaker provided information on several items.

7. New Business

Request to complete private construction work on Webster Road culvert, a class VI road, to clear water from the road.

Motion by Selectman Gehl to allow completion of Webster Road trail road by the Powdermill Snowmobile Club, noting this is a private action; second by Chair Rhoades. Selectman Bickford stated he was a member of the club. Chair Rhoades said he saw no conflict. **The motion carried unanimously.**

Motion by Selectman Gehl to authorize Chair Rhoades to sign landowner permission to allow private work on said Webster Road; second by Selectman Bickford. The motion carried unanimously.

Dam Inspection Notification – TA Whittaker provided a notification from the state Dam Bureau that it is time for March's Pond Dam to be inspected. She pointed out, with subdued irony, that the previous dam no longer exists, which is the reason for the reconstruction project the state has been closely involved with. Selectman Gehl asked that she refer them to the other arm of the Dam Bureau.

8. Schedule Next Meeting

The Board scheduled a business meeting for April 21, 2008 at 7:00 p.m. at Town Hall.

9. Any Other Business

RA Fuller stated Ms. Orlowicz was the new Highway Department Administrative Assistant.

10. Approval of Minutes

Motion by Chair Rhoades to approve the minutes of March 17, 2008 as amended; second by Selectman Gehl. The motion carried unanimously.

Motion by Selectman Gehl to approve the minutes of March 31, 2008 as amended; second by Chair Rhoades. The motion carried unanimously.

11. Non-public Session

Motion by Chair Rhoades at 10:35 p.m. to enter non-public session pursuant to RSA 91-A: 3 II (c); second by Selectman Gehl. A roll call was taken

Rhoades – aye, Gehl – aye, Bickford – aye.

The board discussed aspects of the evaluation forms from the personnel files for three former police officers.

Motion Rhoades, second Gehl to return to regular session for the purposes of adjournment, vote 3 – 0.

The board returned to regular session at 11: 25 PM with no decisions being made as a result of the non-public session.

12. Adjournment

Motion Gehl, second Bickford to adjourn, vote 3 – 0.

The meeting adjourned at 11:27 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.