

**New Durham Board of Selectmen**  
**Minutes of Meeting ~ June 16, 2008**  
**Town Hall**

Members present: Peter Rhoades, Ronald Gehl, David Bickford

Also present: Town Administrator April Whittaker, Road Agent Mark Fuller, Police Chief Shawn Bernier, Tax Collector Carole Ingham, Julia Chase, Marcia Clark, Cynthia Copeland, Robert Craycraft, Gigi Giambanco, Barbara Hunter, Terry Jarvis, Debra Jelley, Dwight Jones, Priscilla Lee, Mary McHale, Cathy Orlowicz, other members of the public

**1. Call to Order –**

Chairperson Peter Rhoades called the meeting to order at 7:03 p.m. and led the Pledge of Allegiance.

**2. Citizens' Forum –**

There was no public input.

**3. Department Reports**

*Highway* – Road Agent Mark Fuller reported the paving of South Shore Road on Friday, and that Powder Mill Road is to be done. He said Jenkins Road will be graveled.

*Police* - Police Chief Shawn Bernier told the Board he was waiting for a test result on one candidate for the fifth police officer. He said he received a letter from the Rec department thanking his department for donating a computer.

*Zoning Board of Adjustment* – Chairperson Terry Jarvis reported the board held its first meeting in seven months.

Regarding the Highway Department, Selectman David Bickford shared a Boston Globe article regarding chemicals put on roads. He said the Town should be on top of the issue. He explained there was a pervious surface pavement available that is better for the environment, and also eliminates hydroplaning. He suggested it might be considered for new roads that are being developed in town.

#### **4. Appointment Meeting**

The Board met with Director Cynthia Copeland of the Strafford Regional Planning Commission and Field Representative Julia Chase of Homeland Security and Emergency Management to discuss the update to the Town's Hazard Mitigation Plan.

Ms. Copeland said the plans needed to be updated every five years, and since funding has changed since her letter of April 30, 2008, the Town could do its update in the next fiscal year.

Town Administrator April Whittaker said the Town's Emergency Operations Plan was completed in 2005, and the Hazard Mitigation Plan, four years ago. Ms. Copeland said the plan includes such natural disasters as flooding, wild fires, Nor'easters, hail and ice storms, and drought, as well as man-made hazards. An assessment is made of the potential hazards and what critical facilities are needed. She said since the plan was drawn up there have been two major floods, so that data could be captured to determine how the infrastructure stood up. Chair Rhoades pointed out that the two flooding events would furnish more data.

Ms. Chase commented that when doing an update was a good time to look at the projects list and re-prioritize if necessary. The Town could apply for federal funds for those projects. Selectman Ron Gehl added application could be possible as the funds become available, as the Town has pursued federal funds.

Ms. Copeland said the SRPC was to have done five communities and will now be doing only two due to funding cuts. She explained that by waiting until next year, New Durham will have a match of 25 per cent in kind, with the federal share being 75 per cent, so it would be cheaper than doing it this year. The Board agreed to the update being done beginning July 1, 2009. Ms. Chase said the Town could develop a committee.

**Motion by Selectman Gehl to request to be placed on the list for Hazard Mitigation Planning for the 2009 fiscal year; second by Selectman Bickford. The motion carried unanimously.**

Ms. Copeland wondered if RA Fuller would like her to set up a meeting with the District 6 engineer in Middleton regarding the need for New Durham snow plows to backtrack, in the hope of reducing mileage. RA Fuller said New Durham is in maintenance District 3. Selectman Gehl pointed out some cooperation between Districts 3 and 6 may be in order. RA Fuller said different towns maintain different parts of the road. Ms. Copeland said the state used to do the entire road. RA Fuller said Middleton used to plow King's Highway and Cople Crown Road and bill New Durham. He said the bills kept increasing,

until New Durham went out to bid. After three years of that, and following complaints from residents, the Town took over the roads. He asked if Ms. Copeland thought the state would cross Middleton's road, which is maintained by Middleton, to plow New Durham's. Ms. Copeland suggested all entities could share some of the load in light of high gas prices.

She advised that Dover is using pervious surface paving on parking lots and it is holding up in the winter. She said less salt is needed and the surface is significantly quieter.

She said a press release is coming out about the Conservation Focus District and that New Durham was the first to adopt the strategy.

Selectman Gehl asked about potential funding regarding Hazard Mitigation projects and Ms. Chase said she did not have an answer, but that there were limited funds. TA Whittaker said the Town made three applications this year. Ms. Copeland said funding at the federal level was going back up.

TA Whittaker asked about "Safe Routes to Schools" for sidewalk construction to the local school. Ms. Copeland explained the procedure to apply. She said it was for schools that covered grades K-8. The population living within two miles of the school is to be determined, and start-up funds could be applied for. A committee should be formed that conducts a survey of parents and the community. All factors wished to be put in place should be determined. Funding for sidewalks can then be applied for, with a probable match of 80-20. She said a \$5 charge can be added to vehicle registrations to help fund sidewalks. She said this year the Town could talk to the school, and look at other programs that exist, such as the walking school bus, and the biking school bus.

She asked about a town representative to the SRPC and Selectman Gehl said some effort had been placed within the Planning Board to come up with a candidate. He said he served for six or seven years and it was an incredibly valuable experience. Ms. Copeland said the Commission was to split its business and education functions. There will be several educational events, including those on growth management, Conservation Commissions, and affordable housing; on the USGS groundwater study; and on conservation easements. She said they would be recorded and DVDs made available. Chair Rhoades thanked her for thinking of the town regarding snow plowing.

## **5. Old Business**

*Committee Appointments* – TA Whittaker said six new applications have come in for positions on the Ethics Committee, ZBA, and Conservation Commission, bringing the total to: Debra Jelley, Priscilla Lee, Jan Bell, Marcia Clark, Barbara

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Hunter, Elizabeth Cantrell, Dennis Cooper, Dwight Jones, Skip Fadden, Bob Craycraft, Mike Gelinas, Katie Woods, Terry Jarvis, and Kristyn Bernier. Chair Rhoades said it was exciting to see so much interest.

Chair Rhoades asked Ms. Jelley why she was interested in the Ethics Committee. Ms. Jelley said everyone needs to be accountable, as well as being reminded of that. She cited past municipal experience in Florida. She said she was a former RN and a small business owner who makes high goals and moves forward to secure them. She said everyone needs to work to be ethical and moral. Selectman Bickford asked why she came forward. Ms. Jelley said she was speaking to Mary McHale about her principles in general, and Ms. McHale suggested she apply. She said it was important to think about who makes decisions for the greater good.

Dwight Jones noted he was not related to any Town employees.

Marcia Clark said she applied because a Baysider article said the people weren't coming out. She said she would like to have the dam fixed and she had interest in the Red Oak development. She said she had no Town employees as relatives and did not serve on any other board.

Regarding the question of relatives and associations with personnel, Chair Rhoades said it was possible to have a mix of people with and without association to the Town on the various boards.

Ms. Hunter said she has lived in New Durham for 36 years and has no relationship with boards or committees. She is a member of the Friends of the Library and is supportive of the town. She said she has been frustrated with rumors regarding the Ethics Code, indicating that there have been times people were turned off from coming forward due to concerns they hold. She said more people might feel comfortable coming forward to serve on committees if they are all working toward the Town's best interests. She said she would follow the guidelines. Selectman Bickford asked her to clarify why people won't come forward. Ms. Hunter replied that people indicated they didn't want to serve on a committee with someone who makes decisions due to his business. She said they did not feel comfortable dealing with a conflict. Chair Rhoades said people dislike stepping into a sticky situation. Ms. Hunter said the Ethics Committee was a place where a concern could be sorted out, to determine its validity. She said she liked getting all the facts.

Priscilla Lee said she has lived here for the past two and a half years, and was also a resident forty years ago. She volunteers at the school and instituted a quilting group in town. Ms. Lee cited past experience in municipal government and told the Board she could bring a balanced viewpoint to the committee.

The Board agreed to discuss applicants in a non-public session, and thanked them for coming forward.

## **6. Administrative Review**

The Board signed the dog warrant. Approximately 100 owners have not yet paid for licenses.

*Wage Study & Comparable Communities* - TA Whittaker asked the Board to make a list of comparable communities to give to Barry Cox for his pay scale review. She suggested they compile a list independently, and then together determine the final list at the next meeting.

*Abatement Request* – The Board reviewed the request of Sharon Worster regarding a current use penalty lien for abatement of interest and costs. Chair Rhoades said it was his thought that a resident pays, and then if the resident wins the case, the money is reimbursed. TA Whittaker said if the Town lost, it would have to pay six per cent. She added that she always advises to pay the taxes in case the case is lost. Selectman Gehl said his understanding was that was how the law works. He said the taxpayer pursued this case. Selectman Bickford affirmed that was how the process works.

**Motion by Selectman Gehl to deny the request of Sharon Worster for abatement of interest and costs regarding current use penalties on property known as Map 34 Lot 22; second by Chair Rhoades.** Chair Rhoades asked Tax Collector Carole Ingham if the Town was charging Ms. Worster in excess of 25 per cent than the actual current use fee, as referenced in her letter. Ms. Ingham said that figure was high, and the interest was more like 18 per cent and the costs were for certified mailing. **The motion carried unanimously.**

*Emergency Management Director Appointment* – **Motion by Chair Rhoades to appoint Dwight C. Jones as Director of Emergency Management for New Durham from June 16, 2008 to April 1, 2009; second by Selectman Gehl.** Selectman Bickford noted Mr. Jones' friendship with an employee of the Bureau of Emergency Management. He asked Mr. Jones why he would be a good director. Mr. Jones replied that he was a former selectman, was retired from law enforcement, and knows a lot of people in the state. **The motion carried unanimously.** The Board signed the appointment form and Chair Rhoades swore in Mr. Jones.

*Gas Inspector* – TA Whittaker presented a letter from Interim Fire Chief Rod Nelson indicating Lt. Kevin Ruel has been appointed Gas Inspector for the Town. She said a new state law requires licensed personnel. Selectman Gehl said the Town was fortunate to have Lt. Ruel. Selectman Bickford asked about

the Fire Department's association with the matter. A resident, Hank Soucy, responded that the work falls under NFPA codes, so the Fire Department is involved, and the inspectors must be licensed.

*War Memorial Inclusion* – TA Whittaker provided a letter from Marjorie Rowe, concerning her request that her son's name, Wayne Corson, be added to the Vietnam memorial at her expense. She said she had no problem with it. Chair Rhoades advocated for a policy. He said as people come forward with similar requests the current monument may fill up and another be required. He suggested additions be made once a year and all costs be borne by the applicant. Selectman Gehl said that sounded fair. He said he was sympathetic to Ms. Rowe and her son's service. Relying on memory, Selectman Bickford said he believed Mr. Corson signed up in Rochester. Cathy Orlowicz said being a resident of New Durham was a criterion for monument inclusion for the World Wars I and II, and the Korean War. She said many residents have served in more recent conflicts, and there will no doubt be a monument for that recognition. She suggested the back could be left for these kinds of applications.

Selectman Gehl said you want to do something for these families. He supported accommodating Ms. Rowe's individual request for her son, and said the policy could be looked into later. Chair Rhoades said the engraving should be the same as on the front of the stone. Ms. Orlowicz assured him that the Roy Monument Company has done a great deal of work in New Durham and the engraving would be appropriate. Chair Rhoades brought up Selectman Bickford's concern about where a person enlisted. Selectman Gehl said the Board was unaware of the criteria for the Vietnam conflict, so he did not think a restriction could be imposed. Selectman Bickford said Mr. Corson was a resident of Rochester. Selectman Gehl said he was born and buried here. TA Whittaker said she held a compassionate view. She stated Mr. Corson was born here, lived here, and was buried here; and that a mother was asking for a simple task and is willing to pay. Chair Rhoades said he would like to review Ms. Orlowicz's research again, but said he would like to move forward with the issue at the next meeting

*Recycling Grant Application* – The Board reviewed the Solid Waste Facility's application for a second hand plastic compactor with container.

**Motion by Selectman Gehl to approve signing the grant application to New Hampshire the Beautiful for a plastic compactor; second by Selectman Bickford. The motion carried unanimously.**

*Fire Truck Lease Agreement* - **Motion by Selectman Gehl to authorize Chair Rhoades to sign the lease/purchase agreement with a non-appropriation clause with Ocean Bank subject to Town Counsel review; second by**

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**Selectman Bickford. The motion carried unanimously.** Chair Rhoades signed the agreement.

**Motion by Selectman Gehl to authorize Chair Rhoades to sign exhibit B of the lease agreement that outlines the payment schedule at an interest rate of 3.88 per cent; second by Selectman Bickford. The motion carried unanimously.** Chair Rhoades signed exhibit B.

**Motion by Selectman Gehl to authorize Chair Rhoades to sign exhibit C of the lease agreement, which outlines a certificate of acceptance, subject to inspection and formal acceptance by the New Durham Fire Department; second by Selectman Bickford. The motion carried unanimously.** Chair Rhoades signed exhibit C.

**Motion by Selectman Gehl that Exhibit E, the lessee resolution be adopted and signed by Chair Rhoades on behalf of the Board of Selectmen; second by Selectman Bickford.** Selectman Gehl read the resolution aloud: Be it resolved by the Governing Body of Lessee as follows:

1.) Determination of need. The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment described on Exhibit A of the Agreement referenced above.

2.) Approval and Authorization. The Governing Body of Lessee has determined that the Agreement, substantially in the form presented to this meeting is in the best interests of the Lessee for the acquisition of such Equipment, and the Governing Body hereby approves the entering into of the Agreement by the Lessee and hereby designates and authorizes the following person to execute and deliver the Agreement on Lessee's behalf with such changes thereto as such person deems appropriate, and any related documents, including any escrow agreement, necessary to the consummation of the transaction contemplated by the Agreement. 3.) Adoption of Resolution. The signatures below from the designated individuals from the Governing Body of the Lessee evidence the adoption by the Governing Body of this Resolution. **The motion carried unanimously.** Chair Rhoades signed exhibit E.

**Motion by Selectman Gehl to authorize Chair Rhoades to sign exhibit F, officer's certificate, of the lease agreement, documenting equipment used by the Fire Department; second by Selectman Bickford. The motion carried unanimously.** Chair Rhoades signed exhibit F.

**Motion by Selectman Gehl to approve exhibit G, no arbitrage and tax certificate, of the lease agreement; second by Chair Rhoades. The motion carried unanimously.** The Board signed exhibit G.

**Motion by Selectman Gehl to authorize Chair Rhoades to sign form 80 38G, information return for tax-exempt governmental obligations, of the lease agreement; second by Selectman Bickford. The motion carried unanimously.** Chair Rhoades signed the form.

TA Whittaker told the Board the truck would be ready for inspection in Louisiana next week. Selectman Gehl said Ferrara has been emailing photos weekly regarding the truck's progress.

*Cocheco River nomination* – TA Whittaker informed the Board that DES has confirmed the nomination of Cocheco River to be designated into the Rivers Management and Protection Program.

*Digital TV* – TA Whittaker said she asked the LGC for permission to use its verbiage for the digital television transition on the Town website.

*Next Meetings* – The Board scheduled a short meeting on June 23, 2008 at 7:30 p.m. at Town Hall to appoint the fire chief.

The Board scheduled business meetings for June 30, 2008 and July 21, 2008 at 7:00 p.m. at Town Hall.

## **7. Old Business**

*Class VI Road Review* – TA Whittaker advised that Ms. Jarvis made tabulated notes on the guidelines for the Board as viewed by her experiences on the Zoning Board and interaction on the Codispoti case. TA Whittaker said the prior one page policy made more sense than the guidelines. RA Fuller said if the 600-foot standard were maintained, people would still come in with requests of 700 and 800 feet. Selectman Gehl said the policy would need strong links to the Master Plan and what parts of Town are less prudent for development per accessibility. Ms. Jarvis suggested the length issue should be considered as the distance the dwelling is from the Class V road, rather than the driveway. TA Whittaker offered to write up a draft that the Board could work off of. Selectman Gehl said he would like emphasis on the planning aspect. He said he would email his notes to the others. Chair Rhoades said he wanted to have a policy by the end of the summer.

Along the lines of access to Class VI roads, Selectman Gehl mentioned the Class VI section of Jenkins Road is deteriorating. He noted two holes in the historic bridge over the Mad River as a result of abuse. He said Jeeps and four wheel drive vehicles use it and the Board should think seriously about the issue of access, as the roads are suffering erosion. Chief Bernier said it's on the internet that New Durham is a good place for four wheel drive vehicles on the Class VI roads. Selectman Gehl stated there are safety concerns. He said the roads are



subject to gates and bars. Chief Bernier said Devil's Den is gated. TA Whittaker asked about posting weight limits on Class VI roads and creating an ordinance. Selectman Bickford suggested working with the local clubs. Selectman Gehl said the Town needs to reserve its rights to block access because of safety concerns. Chief Bernier brought up Pass At Your Own Risk signage.

*Kuzia Request for Class VI Road* – Regarding the request to make the private McKay Sandpit Road Class VI, the Board agreed it had no intention of creating a new class VI road. Selectman Gehl said a private group should pursue the matter. Chair Rhoades said there was fair access to the area. Chief Bernier said he would have a key when the road is gated.

**Motion by Selectman Gehl to deny the request to proceed with converting the McKay Sandpit Road to Class VI designation, as there is still safe access and there would be no public benefit; second by Chair Rhoades. The motion carried unanimously.**

*March's Pond Dam* – TA Whittaker said we are awaiting state approval of the third engineer. She said there needs to be a departmental meeting regarding the matter, also.

## **8. Approval of Minutes**

**Motion by Selectman Gehl to approve the minutes of the business meeting of June 2, 2008 as amended; second by Selectman Bickford. Gehl – aye, Bickford – aye, Rhoades – abstain.**

**Motion by Selectman Gehl to approve the non-public minutes of June 2, 2008 as amended and to seal them in perpetuity; second by Selectman Bickford. Gehl – aye, Bickford – aye, Rhoades – abstain.**

## **9. Any Other Business**

Chair Rhoades suggested making employee pay checks available on Friday morning, rather than Thursday, once direct deposit can be offered. Selectman Gehl said feedback from employees should be requested. He said some may not want direct deposit, and it may be hard for some to get to the bank on Friday. Chair Rhoades said the three and a half days from the end of the pay week to disbursement of checks is too quick. He said the Board's job is to review time cards, and adding a day to the process would take the pressure off the Financial Assistant. The Board agreed to discuss the matter later.

## **10. Non-public Session**

**Motion by Selectman Gehl to enter non-public session at 9:50 p.m. pursuant to RSA 91-A:3 II (c) and (d), to discuss a personnel matter and consideration of the lease or acquisition of real estate. A roll call was taken. Rhoades – aye, Gehl – aye, Bickford – aye.**

The Board discussed potential land conservation acquisition and various options currently suggested to the board.

The Board reviewed a letter from Town Counsel regarding a personnel matter and determined that release should be authorized for the Police Chief's attention.

The board discussed nominations for the position of Fire Chief per the straw poll results conducted by the Fire Department. **Motion Gehl, second Rhoades to nominate Deputy Chief Varney for the position of Fire Chief, vote 3-0.**

The Board discussed the variety of volunteers that had expressed an interest in serving on the Ethics Committee.

The Board returned to regular session at 11:06 PM following appropriate vote in Non Public Session.

**Motion Gehl to authorize the Chair to sign of letter of support for Coastal & Estuarine Land Conservation Program (CELCP) funding; second Rhoades, vote 3 – 0.**

**Motion Gehl to appoint the following slate of people to the Ethics Committee:~**

**Debra Jelley, Dennis Cooper, Jan Bell, Barbara Hunter, & Marcia Clark,**

**Second, Rhoades, vote 3 – 0.**

**Motion Rhoades, to nominate Peter Varney as Fire Chief until April 1, 2009 per the terms and conditions of the warrant article at the 2008 Town Meeting, second Gehl, vote 3 – 0.**

## **11. Adjournment**

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

The meeting adjourned at 11:15 PM.

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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.