

**New Durham Board of Selectmen
Minutes of Meeting ~ August 18, 2008
Town Hall**

Members present: Peter Rhoades, Ronald Gehl, David Bickford

Absent with Apologies: April Whittaker, Town Administrator

Also present: Police Chief Shawn Bernier, Road Agent Mark Fuller, BI/CEO Arthur Capello, District 4 Senator Kathy Sgambati, Cecile Chase, Robert Chase, William Chase, Lucinda Erwin, Phil Erwin, James Goodrich, Barbara Hunter, Ben Long, Bernard Loughlin, Stephanie Mackenzie, Stephen Smith, Katie Woods, Anthony Wyner, other members of the public.

1. Call to Order – Chairperson Peter Rhoades called the meeting to order at 7:05 p.m. and led the Pledge of Allegiance.

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

3. Old Business

March's Pond Dam – Chair Rhoades reported the State of New Hampshire Department of Environmental Services had denied the Town's request to lower the hazard classification of the dam to "low", so it is still considered a high hazard dam. He said Town Counsel would call DBU's (the Contractor) counsel in an attempt to arrive at a solution, as well as investigate a few other options

Barbara Hunter suggested legislative action might be the next step. District 4 Senator Kathleen Sgambati, in attendance, said she would contact the Commissioner of Environmental Services and the Senate's counsel regarding the issue. She said she did not see the state's report, but wondered if it was a question of rules standing in the way. She said she understood that the Town was looking for a remedy for this year, but if the situation continued into next, she would sponsor legislation to help. Chair Rhoades said it was hard to believe that the dam had been categorized as a high hazard dam in the state. He asked Senator Sgambati to go look at it.

Ms. Hunter said it has been classified as low hazard in the past and nothing has changed. Chair Rhoades asked residents to come forward with ideas regarding dealing with the insurance issue and investigating other avenues. He asked the public to hold off for a week or two before bringing in the media and launching e-mail campaigns while Town Counsel pursues his courses of action. Ms. Hunter said it was frustrating that the Town has taken preventive action, raised money, and is trying to do the responsible thing, but has been impeded from doing so.

Selectman David Bickford said a Village District can use state services for such repairs, which are reasonably priced, but a municipality cannot. Bernard Loughlin asked how the state could justify preventing the Town from fixing the dam. Chair Rhoades replied that common sense does not seem to apply in this matter. He added that the dam does fall into high hazard under the state's description of that classification. He said the Town had gone down all the available routes. Mr. Loughlin said the engineer from the Dam Bureau with whom he spoke said the pond would be drained completely. Selectman Ron Gehl said that decision was not the engineer's to make. He said residents could rest assured that the pond would not be drained.

Senator Sgambati asked if the Town had made a formal appeal. Selectman Gehl said no, that the letter to the state came from the brainstorming session with DES, the insurance representatives, the contractor, and legal counsel. James Goodrich asked about reclassifying the dam to low hazard since the water level is far below Mr. Pond's house. Chair Rhoades said it would waste time to classify it at the height of a mud pit.

Mr. Goodrich indicated many wells have dried up, and the cost of drilling has been a hardship for residents. Deputy Town Clerk and Deputy Tax Collector Stephanie Mackenzie told Senator Sgambati that assessments have gone down, for a loss of over \$100,000 in taxes. Anthony Wyner asked at what point should residents bring in the media. Chair Rhoades guessed within the next two weeks. He said he did not want anything to happen that would hurt the Town's options. Ms. Mackenzie said word from Town Counsel could be disseminated quickly.

4. Public Appointments

E 9-1-1 – The Board met with Bruce Cheney and Mike Kelleher of the Bureau of Emergency Communications. Mr. Cheney said he had approached the then sitting Board in 1994 about mapping the town for emergency purposes, but nothing came of it. He said about half the towns in the state have done so. He said the Bureau has collected GPS information on New Durham.

He showed the Board a map of an Alton area revealing roads, driveways, and pictures of damaged dwellings, produced the day after the tornado, to illustrate what could be done. He said E 911 knows where New Durham's roads are, but not the houses. He said they could provide the Town with digital data when finished with collecting. That information could be sent directly to a cruiser or fire truck.

Chair Rhoades asked why the Town has not done this already. Mr. Cheney said sometimes the public gets upset when road names must be changed, in the case of confusing, similar names. Police Chief Shawn Bernier said his department is GPS compatible, and asked if the information came directly from E 911. Mr. Cheney replied that the maps are loaded in the local dispatch center, so they dispatch the display. He said pictures could be added to the display. He clarified that E911 maps the driveways, not the actual dwellings. He said the BOS has authority over naming private roads. Selectman Bickford said the town's house numbers are 911 compatible.

Mr. Cheney said E911 has not collected the data for the Town. Chief Bernier said he had no knowledge of ever being approached. In response to Chair Rhoades' question regarding cell phones, Mr. Cheney said cell phones have GPS transmitters, so the caller could be located. He said E 911 would like to come in and do the mapping. He added that it costs the Town nothing, to which Chair Rhoades said he was going to inquire regarding that.

Chief Bernier said the mapping would help E 911 know where the residence is, to direct police and fire departments to the scene. He indicated some road names are similar. Chair Rhoades asked if E 911 identifies the problems. Mr. Cheney said they do, and will install the system either way, but cautioned the Board that the Town is liable if the road name is not changed after E 911 points it out, and a problem results. Police Department Executive Assistant Katie Woods said the town's house numbers are based on hundredths of a mile, as opposed to the 50-foot increments Mr. Cheney had mentioned. He said they would live with what the Town has. Selectman Gehl said our system is at 52.8 feet. Mr. Kelleher said E 911 would point out problems that could delay emergency response. Mr. Cheney said the system is designed for mutual aid. He said it might turn out that New Durham's Town lines are different than thought. Selectman Gehl said the Town is creating digital tax maps, so some change is expected. Mr. Cheney said town lines are often jogged in the case of houses outside the boundary that have been considered part of the town.

Chair Rhoades asked for Chief Bernier's opinion. Chief Bernier said it would be a good thing for the Board to look into to discover how it would help emergency services. Selectman Bickford said the fire department would probably be interested, too. Mr. Cheney offered to provide a tour and thorough explanation of the Laconia facilities. Selectman Gehl asked about sharing the information. Mr. Cheney said it would be shared only with the Town. Selectman Gehl assumed it could be a part of the tax maps. Chief Bernier said the Town has a locator system, but that it is somewhat outdated. Mr. Cheney said they would use what is in place. He said E 911 does not supply names, only locations. He said a reverse 911, an emergency alert system that provides telephone numbers of people in the path of a disaster so the Town's emergency services could call them, is in the works now.

Mr. Kelleher said it takes about two weeks to collect the information. Chair Rhoades said the police and fire chiefs will tour the facility, and that the Board would give Town Administrator April Whittaker the letter provided by E 911. He said he was sorry the Board did not know of this sooner.

Presentation of Babe Ruth plaques

Recreation Director Jessica Bailey presented Will Chase and Phil Erwin with plaques indicating their inclusion in the 2007 edition of the "Best Players in the Babe Ruth League".

5. Department Reports

Highway – Road Agent Mark Fuller reported the new truck came in last Thursday, and is due to be fitted with plow frames and wing gear tomorrow. He

said the trade-in on the old truck would be \$12,000. Chair Rhoades asked if it was worth more.

RA Fuller replied that other companies have expressed interest in it, but if it were used as a trade-in there would be \$12,000 less taken out of the Capital Reserve Fund. He said the company would want its money by the end of the month, so there would not be enough time to advertise a sealed bid. Chair Rhoades said he was in favor of getting more money for the old truck. Selectman Gehl suggested posting a notice at Town Hall and on the website, as well as a small ad in *The Baysider*. RA Fuller said he would take care of it.

He also reported on digging out culverts and ditches, and grading roads. He cited Ridge Road as an example of gravel staying in place better when a packer is used.

Police – Chief Bernier reported on several current cases in town. He said the department made arrests regarding iPod and purse thefts at the boat launch. He said Officer Jason Durrance would start the Police Academy next week.

Building Inspector/CEO - BI/CEO Arthur Capello reported that 25-30 people attended the meeting for tornado victims, along with 10 representatives from the state. He said everyone left with information and he anticipated an influx of permits for repairs. In response to Selectman Gehl's question regarding removal of trees, he said there was not a lot of guidance. The state has said to leave the root ball if possible and to grind the stump. The tree can be pulled if it is overturned. Brush cannot be left on properties. Replanting the area is preferable, but hollowed out areas can be filled in instead. He assumed firewood companies would come for any logs. RA Fuller said all Town property has been taken care of. Mr. Capello said President Bush recently said federal funds would be available for communities, but not individuals. Strafford County is not among the counties eligible, but Governor Lynch is trying to have it included.

6. Administrative Review

The Board voted on recommended committee policies and floor policies for the Local Government Center. Selectman Gehl suggested voting on the floor policy proposals individually, and voting on the others as a slate.

Motion by Selectman Gehl to support the floor policy proposal in respect to waiving municipal recording fees for the establishment and release of Elderly Deferrals at the County Registry of Deeds; second by Chair Rhoades. Selectman Bickford pointed out that the county needed to make money, too. A vote was called. **Rhoades – aye, Gehl – aye, Bickford – nay. The motion carried.**

Motion by Chair Rhoades to not support an amendment to RSA 72:28, IV (a) to allow all veterans residing in New Hampshire with an honorable discharge to qualify for the Standard and Optional Veterans' Tax Credit regardless of whether they served their country during the qualifying wars and armed conflicts currently listed or received the required medals; second by Selectman Gehl. The motion carried unanimously.

Motion by Selectman Gehl to not support a constitutional amendment brought forth by the Town of Conway to amend Part II, Article 6-A to clarify the uses of funds in the Highway Trust Fund; second by Selectman Bickford. The motion carried unanimously.

Motion by Selectman Gehl to not support legislation to amend RSA 318-B concerning the location and operation of methadone clinics in our cities and towns; second by Chair Rhoades. The motion carried unanimously.

Motion by Chair Rhoades to support legislation to amend RSA 40:13, IX(b) to clarify the definition of the "Default Budget"; second by Selectman Gehl. The motion carried unanimously.

Chair Rhoades moved to support an amendment giving the municipal governing body the final authority on water withdrawals. Selectman Gehl pointed out that, although on the surface the amendment sounded appealing, prior legislation is the best balance regarding the matter. He said an aquifer does not end at a town line and issues beyond town boundaries must be considered.

Motion by Selectman Bickford to not support an amendment to RSA 485-C to give the municipal governing body the final approval authority on water withdrawals from aquifers for commercial bottling purposes; second by Chair Rhoades. The motion carried unanimously.

Motion by Selectman Gehl to support the action positions espoused under Municipal Administration and Finance Management with the exception of #3 concerning the Bond Rescission Process pending further discussion; second by Chair Rhoades. The motion carried unanimously.

Motion by Chair Rhoades that of the action positions under General Government, Revenue, and Intergovernmental Relations, the Board has no opinion on #9 concerning Binding Arbitration, and supports the remaining 16; second by Selectman Gehl. The motion carried unanimously.

Selectman Bickford raised concerns about voting on the action positions without all the facts. Selectman Gehl said the members empowered the committees to work on these issues. Selectman Bickford said it was giving the Municipal Association power to lobby for the Town. Selectman Gehl commented that most of the positions were common sense.

Motion by Selectman Gehl to approve the entire slate of action positions under Planning and Environmental Quality as proposed; second by Chair Rhoades. The motion carried unanimously.

Appoint SMPO representative – RA Fuller said nothing discussed by the Strafford Metropolitan Planning Organization pertains to New Durham, and Representative Michael Clarke attended only one meeting. Time involved to attend would be half a day. Selectman Gehl suggested sending Mr. Clarke as issues arose that may benefit the Town.

Motion by Selectman Gehl to appoint Michael Clarke as the FY 2009-2010 representative to SMPO and Mark Fuller as the Town's alternate; second by Chair Rhoades. The motion carried unanimously.

The Board briefly reviewed informational items provided by TA Whittaker in her absence.

The Board scheduled its next meeting for September 8, 2008 at 7:00 p.m. at Town Hall.

7. Old Business continued

Building Permit, Stephen Smith, Map 27A Lot 79 Section I – Selectman Gehl noted confusion on this issue due to long stretches of time between occasions it has come up. He said concerns had been raised regarding drainage issues. RA Fuller said draining from the back lot would go into Brookfield. Chair Rhoades mentioned there was concern over the other lots, which may be submitted for development. Selectman Bickford read the minutes of 2005 regarding the engineering study requested. Mr. Smith said he wanted conditional approval before he purchased the lots. He said this permit is only for Lot 79. He added there would be no impact on Mountain Drive or the abutting lots. He agreed that an engineering study would have to be prepared for the other lots if they were developed. Chair Rhoades said Selectman Gehl had looked at the area again and was satisfied Lot 79 does not affect drainage on Mountain Drive.

Motion by Selectman Gehl to approve completing the building permit granting process for Map 27A Lot 79 Section 1 subject to: Prior to granting the Building Permit –

- 1.) Signing of municipal waiver of liability;**
- 2.) Posting of bond for necessary roadwork and drainage improvements, or completion of the specified work to the satisfaction of the Road Agent;**
- 3.) Filing of driveway permit with Copple Crown Village District and bonding to CCVD requirements;**

Prior to granting Occupancy Permit:

- 1.) All roadway and drainage improvements completed to the satisfaction of the Road Agent and CCVD with written approval received;**
- 2.) Any required maintenance easements executed with CCVD,**
- 3.) Compliance with terms of applicable CCVD permits;**
- 4.) Notification of CCVD 48 hours in advance of any roadway or drainage work;**
- 5.) And with the final condition that in the event that lots identified as Map 27A Lot A7 and Lot 99 Section 1 are pursued for building permit applications, the Board of Selectmen will require an engineered analysis and mitigation plan per its original 2005 approval;**

second by Chair Rhoades.

Discussion: Mr. Smith asked about specifics of a drainage plan. Selectman Gehl referred to the Board's letter to Mr. Smith of October 3, 2007, which included 50-year flood information.

The motion carried unanimously.

BI/CEO Capello asked if the three conditions have been met to sign off on the permit. Selectman Gehl said the waiver of liability should use the language approved by Town Counsel. He suggested Mr. Smith confer with TA Whittaker.

Class VI Road Review – Selectman Gehl asked Selectman Bickford to again ask the Planning Board for its input, as the policy needs to be keyed in with the Planning Board.

Streetlights – Selectman Bickford suggested eight lights that could be turned off, although it is not completely clear if they are all Town lights. He cited two on Main Street, and some on Merrymeeting Lake Road.

8. New Business

Burn Pile Clean Up – Chair Rhoades indicated it appeared to be necessary to sort through the gravel and partially burned material in the burn pile at the Solid Waste Facility. He read three quotes that ranged from \$1,750 to \$3,200, all with 3-inch screens. RA Fuller said it should be a one-day job and that the highway department's screen is 3 inches. He recommended less. He remarked that the state wants to separate wood from other material. He said the pile is being burned now. Chair Rhoades said this action has not been budgeted for. Selectman Gehl suggested holding off on any decision, as the matter needed clarification. He suggested TA Whittaker speak with RA Fuller and Solid Waste Facility Manager Joe Bloskey.

9. Approval of Minutes

Motion by Selectman Gehl to approve the minutes of August 4, 2008 as amended; second by Selectman Bickford. The motion carried unanimously.

10. Non-Public Session

Motion by Selectman Gehl at 9:33 p.m. to enter into non-public session under RSA 91-A:3 II (d) to discuss the acquisition of real property; second by Selectman Bickford. A roll call was taken: ~ Rhoades – aye, Gehl – aye, Bickford – aye.

The Board returned to regular session with no decisions being made with respect to the non-public discussions.

11. Adjournment

There being no further business, motion Gehl, second Bickford to adjourn, vote 3 – 0. The Board adjourned the meeting at 10:20 p.m.

Respectfully submitted,

Approved: New Durham Board of Selectmen minutes 08/18/08

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.