

applicants were carried forward and if those individuals were asked if they were still interested in serving. TA Whittaker replied that was the case, and that she keeps those records on file.

### **9. Approval of Minutes**

The following corrections were made to the minutes of June 1, 2009:

Page 4, 4<sup>th</sup> paragraph, 2<sup>nd</sup> sentence: remove "located it" and replace with "gave permission to locate it"

Page 5, 2<sup>nd</sup> paragraph, 1<sup>st</sup> sentence: remove the "s" in lines and add the word "markers" to read, town line markers

Page 6, under Old Business, 4<sup>th</sup> line, remove the word "do"

**Motion by Selectman Jarvis to approve the minutes of June 1, 2009, as amended; second by Selectman Bickford. Gehl – abstain, Bickford – aye, Jarvis – aye. The motion carried.**

### **10. Any Other Business**

*Trash Collectors* - RA Fuller said Police Chief Shawn Bernier noted vendors who collect resident's garbage bringing in trash to the Solid Waste Facility without a sticker, and wanted to know how the Board wished to handle the situation. Chair Gehl said usually vendors were required to get a Peddler's License. TA Whittaker said the Town should have a list of the vendors' New Durham clients, which should be updated twice a year. The police department turned away 38 cars from the Solid Waste Facility for not having stickers and two of those were not legitimate residents. Chair Gehl said he was open to a proposal on how dealing with the vendors would work. TA Whittaker suggested Town Clerk Carole Ingham and Chief Bernier should determine what they need to make things work for them, and then the Board could modify the ordinance. Chair Gehl said it was a matter of accountability given the high costs associated with trash haulage and tipping fees.

### **11. Adjournment**

**Motion by Selectman Jarvis to adjourn at 9:16 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.

order. TA Whittaker said all paperwork is complete regarding who owns the land. She said the CCVD did, and has now sold it to Mr. Smith, along with an adjacent lot. She said it appeared as though one lot may be in Brookfield and one in New Durham, so the building permit would be in Brookfield's hands, but according to the current tax maps, the lots are still designated in New Durham, and the Board must act accordingly. Mr. Bickford said one would have to question how accurate the survey was if the town was misidentified. BI/CEO said another permit requested by Mr. Smith is ready, but has not yet been picked up. Chair Gehl said the Board approves an applicant's ability to obtain the permit. He said the Town line is labeled as approximate and the tax map indicates only lot 23, but that the Board was obligated to move ahead and observe conditions that might require it to place construction conditions on a permit.

TA Whittaker read the traditional conditions placed on permits. She noted that a signed municipal waiver of liability does not transfer when a property is sold. Chair Gehl said the Board was limited to making a situation as safe as possible and to limit liability for the Town and the CCVD, which is why roads are brought up to high standards. TA Whittaker said she would notify Mr. Smith that when the tax maps come out in the fall, the property could be in Brookfield and he would have to go through this process again. Chair Gehl said the bearings were made from monuments on the ground. He said we could ask Cartographics if they know about that area yet.

The Board scheduled a *site walk* for *June 29, 2009 at 6:30 p.m. at the top of Mountain Road*, with RA Fuller and BI/CEO Capello to accompany.

**Street Lights** – Selectman Bickford asked about progress on the street light situation. TA Whittaker said the first meeting of the Facilities Committee will be tomorrow evening, and priority was given to this directive, but streetlights were still on the "radar."

**Conservation Easement** – TA Whittaker advised the Board not to commit to any language stating they are aware of the condition of the easement property regarding pollution when asked by the Society of the Preservation of New Hampshire Forests. She suggested responding that the Board declines to offer an opinion for liability purposes. Chair Gehl explained the conservation easement of the Woodward property, a sizable parcel with pond frontage adjacent to preserved land. He said it was located within the same area as the potential Birch Hill conservation area, and could be used as leverage. He said the Conservation Commission is working with SPNHF and that the Commission will be asked to expend funds for that effort. For the record, Selectman Bickford stated he owned property across the street from the easement and asked if the board felt there might be a conflict. Chair Gehl said the Board only deals with withdrawal of Conservation Commission funds, as it provides the formal authority for withdrawal of funds. The CC decides if it wants to withdraw or not.

**Appointments** – Selectman Bickford asked how the Board was handling applicants who were not appointed, as there had been several applicants to the Parks and Recreation Commission, and an individual had originally applied for the newly founded Ethics Committee last year, yet Skip Fadden had been appointed to fill a vacancy on that committee without any other name being brought forward. He asked if names of former

being done with one engineer overseeing all of them, they were done individually. The benefit of that was to get water into the ponds earlier.

TA Whittaker summarized the costs so far from the \$800,000 appropriation: \$623,612 spent, with \$176,388 remaining. The DuBois & King bill has been \$78,838 YTD . She said the increase would make things close, but she still felt would be within the appropriated limit. Chair Gehl said it would be worthwhile for the Board to review the amendment closely. TA Whittaker indicated some change orders as well, such as the concrete floating mat & concrete testing also required additional oversight . Chair Gehl said things can be unpredictable when working below ground. The Board will discuss the amendment at the next meeting to provide for an opportunity to understand the engineering reasons for the additional requested monies.

**Public Hearings** – TA Whittaker noted the two public hearings on the street name changes have been set for July 6 and July 20, 2009 at 7:15 p.m. at the New Durham Public Library. Selectman Jarvis said she would be out-of-state on the 20<sup>th</sup> and would like to attend remotely. Chair Gehl said the Board would figure out a way to do so.

**Mobile Sign** – Selectman Bickford returned to the issue of the Parks and Recreation Commission’s sign. Selectman Jarvis said she would like to know if the information displayed on the sign would be related to games, since only the kids, parents, and coaches would see it. Chair Gehl said the Town did not want to be seen breaching its own ordinances and that the placement should have to do with not being easily visible from the public way. Selectman Bickford said the sign would not be visible from the street if it were at the ballpark. Chair Gehl said he would imagine the intent would be locating it where people would see it on their way in the park, but that the Board did not know the Commission’s intent. Selectman Jarvis said she would like more information on what information was to be displayed and exactly where the sign was to be located. Chair Gehl asked TA Whittaker to have Recreation Director Jessica Bailey address the issue at the Commission’s next meeting. BI/CEO Capello said even though it is part of the government’s activity, it does not mean the government can’t go through the same channels as the public. RA Fuller stated if the sign is moved to the ball field from the Solid Waste Facility, it should be left there. BI/CEO Capello reiterated that unless there is a pressing need, a Town should not go against Town ordinances. Chair Gehl said the sign had already been purchased and the Board wanted to see some use made of it.

**Next Meeting** – The Board scheduled its next meeting for **July 6, 2009 at 7:00 p.m. at the Library.**

## **8. Old Business**

**Building Permit** – Chair Gehl said the issue of Stephen Smith’s request for a building permit on a private road was last discussed February 15, 2007 and that the issue had been tabled pending resolution of ownership of the land. A quitclaim deed agreed to by the Cople Crown Village District Commissioners has now granted lots 23 and 24, Section 1 to Mr. Smith. Chair Gehl said the matter needed to be reopened and moved ahead with. He suggested a site walk. Selectman Bickford asked if it was appropriate to table it for that amount of time. Chair Gehl said notification of abutters would be in

of installing box culverts. She said that design will help get it through the Wetlands Bureau. RA Fuller said box culverts may be faster to install.

*Legal opinion* – TA Whittaker provided the Board with the legal opinion regarding the Board's authority over the issue of the Parks and Recreation's mobile sign.

*Draft Emergency Action Plan for March's Pond Dam* – TA Whittaker said a test run will be performed, testing the communication system prior to allowing water back into the Pond. Chair Gehl pointed out an erroneous mistake for the residence closest to the dam, which listed a figure twice as deep as the modeling indicated i.e. 3-foot depth flooding potential versus 1.3 feet per the modeling. TA Whittaker confirmed that the Dam Bureau provided the engineering figures and she would advise of the discrepancy to them. She noted to the Board that such a plan traditionally would have cost over \$5,000 for an outside consultant to have completed the same. She confirmed that she completed the remainder of the document outside of the engineering statistics, and the test needed to be run as soon as possible. Chair Gehl agreed that we don't want the Dam Bureau dragging its feet before refilling the ponds. TA Whittaker said the language for this Emergency Action Plan is interchangeable with the other ponds in town. She said the contractor appears to be correct that at March's Pond Dam will be completed during the first week of July and the dam needs to be tested before winter.

*Dam Meeting* – TA Whittaker provided the minutes of the last March's Pond Dam meeting.

*Transportation Plan Update* – The update from the Strafford Regional Planning Commission indicated the Board's efforts regarding transportation were for naught.

*LGC Legislative Bulletin* – Selectman Jarvis indicated state retirement share payments for police & fire retirement seemed to be an unfunded mandate. TA Whittaker confirmed there is no provision within legislation to cover it, and that the towns are slated to pick it up. She said the Town would have to draw up something different on special detail rates to cover those extra retirement fund costs as the costs are based on payroll. Selectman Jarvis asked if a revolving fund could be established for those funds. Chair Gehl said the Board had discussed that issue once before, and TA Whittaker said the Town had been using the monies as revenue to offset the tax rate, and that could not be done with a revolving fund. Mr. Bickford concurred that he saw no benefit to forming a revolving fund.

*Town Warrant* – Mrs. Whittaker was required to send on a signed copy of the 2009 Town meeting warrant to DRA; she had previously sent on an unsigned copy. Chair Gehl and Selectman Bickford signed for the 2009 Town Warrant, per the request of DRA.

*March's Pond Contract Amendment* – TA Whittaker reported a contract amendment regarding third party engineering oversight on the project that will increase that amount to \$141,000 from \$99,600, due to wintertime construction. She said since the construction work was piecemealed through the winter, the third party oversight engineers were on site more. Chair Gehl explained that instead of three or four simultaneous activities

department use the current forestry truck. Selectman Jarvis pointed out the vehicle needed to be a safe truck. She said in the 1980s there were safety issues with a fire department vehicle. She said the vehicle must meet the needs of safety, and be able to be driven by at least two drivers. Chair Gehl asked if the department was looking for pricing for used trucks. Chief Varney said David Stuart is handling the details. He said his understanding of the article was that vehicles needed to be new, so he did not have funding for a used vehicle. Town Administrator April Whittaker said she checked the article and it does not stipulate a new vehicle. Chair Gehl read Article 11 of the 2003 warrant stating monies were to be used to replace fire trucks (no stipulation of "new"), so it would seem all right to use the fund for a used vehicle. Chief Varney said that was good news and the department would look into it.

Chief Varney reported the first baby delivered by the department was born in Johnson's parking lot.

### **7. Administrative Review**

Capital Improvement Committee appointment - TA Whittaker brought up the appointment request of Paddy McHale to the CIP, as she wanted to get that committee going next week.

**Motion by Selectman Jarvis to appoint Padraic McHale to the at-large position on the CIP; second by Selectman Bickford. The motion carried unanimously.**

The Board signed the appointment form.

*Davis Crossing Engineering Engagement Letter* - The Board reviewed the engagement letter from CMA Engineers regarding the Davis Crossing culvert replacement. TA Whittaker said FEMA has granted \$425,616 for the project. The Town's portion is \$104,072, and the state's, \$321,544. Chair Gehl advised that \$39,000 for engineering costs comes in below the estimate in the grant application. TA Whittaker said she was anxious to move the work along, so it would be completed before the real onset of winter. Selectman Jarvis asked if this was the maximum cost. Chair Gehl said the language was typical of engagement letters, and represented a not-to-exceed amount. He said if there were extenuating circumstances necessitating more money, the engineers would come to the Board about it.

**Motion by Selectman Bickford to designate Chairperson Ron Gehl as signatory of the Davis Crossing Culvert Replacement Agreement with CMA Engineers, Inc; second by Selectman Jarvis. The motion carried unanimously.**

Chair Gehl signed the agreement letter.

Chair Gehl indicated the permits are part of CMA's schedule, and should not be an issue. Selectman Bickford commented that the culverts called for are more like a bridge. Chair Gehl said the box culverts are an acceptable design for the Wetlands Bureau, and are better for wildlife. TA Whittaker said amendments to the Birch Hill project will be called for, and the Town will again resubmit the new designs for more money because

New Durham regardless of tenure, may place a standardized stone memorial plaque engraved with that person's name on the site of the general memorial at their own expense.

Citing disadvantages of the existing war memorials' location in front of Town Hall, the Committee recommended a small plot of Town owned land adjacent to and immediately south of the John C. Shirley Cemetery for a permanent site of the war memorials, as it has adequate space for parking, room for all memorials, and the mission of the cemetery is consistent with the vision for providing a lasting dedication to veterans. The letter indicated that it would not be necessary to relocate all monuments at or near Town Hall if there is a consensus to retain some of them. Also, prior to relocating the memorials to the area adjacent to the cemetery, any individual stone memorial plaques could be temporarily placed with the memorials in front of Town Hall.

Ms. Orlowicz thanked fellow Committee members

- ❑ Marcia Clark,
- ❑ Tom Goss, and
- ❑ Anneleen Loughlin,

calling them dedicated and sensitive to the subject. She said the Committee spoke with the Cemetery Trustees about its proposal to use land abutting the Shirley Cemetery as a courtesy as abutters. She advised that the Trustees supported the idea. She went on to tell the Board that name plaques could be added to the base of the current memorial, as a solution to Mrs. Rowe's request. Chair Gehl said that area could be added to considerably, to accommodate more names. Ms. Orlowicz said the gentleman who added stones around a flagpole in Alton would charge approximately \$100 for the stone and up to \$50 for engraving. The cost of the footing and installation would be additional. Mr. Goss said there was room for a plaque out front. Chair Gehl clarified that the Committee's consensus was to move the memorial as a long-term solution. Mr. Goss pointed out that it was situated right by the road. Selectman Bickford asked about including reservists. Ms. Orlowicz said the government has changed definitions. Discussion ensued on standardized design and size of plaques or offering different packages. Selectman Jarvis said she liked the location, as the area would house the Boodey House, the proposed memorial, and then the cemetery. Ms. Orlowicz said the chosen location is behind the gate and would never be used for burial if the cemetery expanded. She said Road Agent Fuller indicated sewer lines, etc. could cause problems if the new memorial was located close to Town Hall. Chair Gehl said the Board appreciated the excellent work, believed the concept to be excellent, and would take the proposals under advisement.

## **6. Department Reports Continued**

*Fire* – Fire Chief Peter Varney said he has not yet received all the information on the proposed acquisition re a pick-up truck for the skid unit. He said there has been a delay in the manufacturing of the skid unit. Selectman Bickford said he had reservations about using a new truck for the vehicle that goes into the forest. He suggested the fire

precedent. He pointed out that such fees are usually folded into a homeowner's insurance claim.

Selectman Terry Jarvis said it was inappropriate to grant a waiver in this instance. She asked where would the Board draw the line in consideration of natural weather disasters, and agreed that the charge is reimbursable by insurance. Selectman David Bickford drew a parallel to the timber tax. Chair Gehl, however, reaffirmed that in the recent matter, the tax had been discounted because it was based on the value of the material, which was lower due to the tornado. Selectman Bickford agreed that this situation was different.

**Motion by Chair Gehl to deny the request for property on Merrymeeting Lake to waive construction-building fees; second by Selectman Jarvis. The motion carried unanimously.**

### **5. Public Appointment**

The Board met with the "War Memorial Committee." Chairperson Cathy Orlowicz provided the Board with informational packets. She advised that the Committee formed at the end of October 2008, as a result of a request to have a name added to the memorial in front of Town Hall. She read a letter to the Board, which indicated the Committee developed recommendations and possible alternative solutions to placing Mrs. Rowe's son's name, and others, on the memorial, as well as what form of war memorial would be best, and appropriate locations for memorials.

The Committee felt any names added should be those of veterans who were honorably discharged, but discovered there is no one definition of "veteran" that covers all major conflicts, nor is there a means to confirm discharge with appropriate honors, as there are many types of discharge where the reason for discharge is unavailable. The letter went on to state that an apparent, although undocumented, Town policy includes the names of permanent and continual residents of the Town. The Committee indicated that that criterion is no longer appropriate due to the mobile nature of our society, and could exclude large portions of citizens from consideration for the memorial. An investigation of how other communities have handled similar situations revealed a variety of methods.

The committee did attempt to determine if a policy could be developed that would guide the Town on how to show respect for named veterans, but was unsuccessful because of the amount of research necessary to confirm who is a veteran discharged with appropriate honors, the potential that citizens may not agree that the conflicts addressed by the policies are all encompassing or limited by policy, and the concern about how to allow residents of the town to be considered on the basis of being permanent residents, or length of tenure as citizens of the town.

The committee's long-term proposal to respect veterans is to establish a general war memorial that respects all members of the armed services who have served during times of conflict, located on a piece of land large enough to accommodate relocation of existing memorials. In addition, the committee proposed that the Town establish a policy that family or friends of any service member who served during time of conflict, with ties to

# **New Durham Board of Selectmen**

## **Minutes of Meeting ~ June 15, 2009**

### **Town Hall**

**Members Present:** Ronald Gehl, David Bickford, Theresa Jarvis

**Others Present:** Town Administrator April Whittaker, Road Agent Mark Fuller, Building Inspector/Code Enforcement Officer Arthur Capello, Fire Chief Peter Varney, Marcia Clark, Tom Goss, Anneleen Loughlin, Bernard Loughlin, Cathy Orlowicz, Gigi Gianbanco, Ryan Noonan

**1. Call to Order** - Chairperson Ron Gehl called the meeting to order at 7:03 p.m. and led the Pledge of Allegiance.

**2. Citizens' Forum** - Cathy Allyn reported that the "1772 Meetinghouse Restoration Committee" will request three proposals from logging companies to begin work on phase 1 of the Historic Structures Report on the Meetinghouse. She indicated the committee is discussing developing an historic tour with New Durham "characters" at various sites.

### **3. Department Reports**

***Highway*** – Road Agent Mark Fuller said his crew was performing general maintenance. He told the Board the new dump truck is in and will be picked up soon. He said the old 1994 Ford truck should go out to bid. The Board agreed.

***Building*** – BI/CEO Arthur Capello said he has been following up on outstanding code issues. He said the owner of the expanded concrete dock has gone through the proper channels. He reported that he is keeping tabs on the Old Bay Road junkyard. BI/CEO Capello brought up an issue under New Business on the agenda, and told the Board he did not support waiving building permit fees.

### **4. New Business**

***Request for waiver of building permit fees*** – Request taken out of order to accommodate Mr. Capello's appearance. Chair Gehl indicated receipt of a request to waive building permit fees of \$800 on property damaged by the July 2008 tornado. BI/CEO Capello said if the Board refunds this fee, it would have to consider the \$2,000 in fees paid by other residents affected by the storm. He asked how this natural disaster was any different from another. He said fees are charged for rebuilding damaged structures, and that fees fund the Building Inspector's department. He said if the fee were waived, taxpayers would wind up paying.

Chair Gehl said the Board wanted to emphasize that the Building/Code Enforcement functions are sustained by permit fees, and is trying not to burden taxpayers. He said he was unaware if such a waiver had been granted before, and if granted, could set a