

**New Durham Board of Selectmen
Minutes of Meeting ~ January 19, 2011
Town Hall**

Members Present: Theresa Jarvis, David Bickford (Frederic March absent due to illness)

Others Present: Administrative Consultant (AC) Alison Rendinaro, Road Agent (RA) Mike Clarke, Fire Chief Peter Varney, Equipment Mechanic David Valladares, Marc Behr, Mike Gelinis, Barbara Hunter, Cathy Orlowicz, Mary McHale

1. Call to Order –Chairperson Terry Jarvis called the meeting to order at 7:01 p.m. and led the Pledge of Allegiance.

2. Agenda Review – Chair Jarvis moved up Department Reports so Road Agent Mike Clark and Equipment Mechanic David Valladares could go home.

3. Citizens' Forum – Cathy Allyn announced that the New Durham Public Library has launched a free Books on Wheels program available to shut-in residents. People may call the library and request books to be delivered by a volunteer. The Crochet Club, after a break for the holidays, is starting up again February 5, 2011 at the library on Saturdays at 1:00 p.m. and is now open to knitters and weavers, also.

4. Department, Board, Commission and Committee Reports

Highway – RA Clarke said the plow and wing come to \$138,000, and he was asking for \$100,000 to be taken from the Highway Equipment Capital Reserve Fund and the remaining \$38,000 to come from general taxation through a warrant article. He said \$41,215 would be left in the account after the \$100,000 came out, and it was his understanding that previous Road Agent Mark Fuller's retirement would be taken from that account.

Administrative Consultant Alison Rendinaro said that was phrased that way for budgeting purposes, but it was not saying there was no money left in the Solid Waste/Transfer Station account. RA Clarke said Article 12 covered raising the \$38,000 and if those monies were taken from another account, the article would be unnecessary. Chair Jarvis said the plow and the grader go hand-in-hand. RA Clarke said the grader cost is \$174,808 and a wing costs \$14,000.

Motion by Selectman David Bickford that the wording of Article 12 be: To see if the Town will vote (i) to see and appropriate the amount of \$138,000 for the purchase of a highway truck with plow and wing, (ii) to approve withdrawal of \$100,000 from the Highway Truck Capital Reserve Fund created for this purpose and (iii) with the remaining \$38,000 to come from the Unreserved Fund; second by Chair Jarvis. 2-0.

Discussion moved to financing the new grader. RA Clarke remarked on the favorable interest rate of 3.985 that the Town now has. Selectman Bickford said he was open to financing the complete price of the grader due to the good rate. He said the surplus in the fund could then go to other things. Chair Jarvis pointed out that

enough money must be in the account to purchase the loader in 2013. She said Selectman Fred March had suggested going back to separate funds for items that are now included in the Highway Equipment Capital Reserve Fund. She said more information was coming in on the grader. AR Rendinaro is to look into bank financing. Equipment Mechanic David Valladares said a loader would cost around \$150,000. Chair Jarvis said 100 per cent of it could be financed due to the favorable rate, but she wondered if \$50,000 or \$60,000 could be taken from the CRF, decreasing the amount financed, without losing the low rate.

RA Clarke said the Town is looking at an estimate of \$140,000 for the loader to be replaced in 2013, the backhoe to be replaced in 2024 and the 2011 grader to be replaced in 2026. Chair Jarvis asked AR Rendinaro to determine the figure in the Unreserved Fund and to draft the article with financing for the full amount.

AC Rendinaro said the Board is proposing separating the Highway Equipment Capital Reserve Fund into three separate funds for the loader, grader, and backhoe. RA Clarke pointed out that the Board just discussed paying a portion of the loader with what is left in the fund. He said the Town would not have the money to do that if the CRFs were separate. Chair Jarvis said larger amounts of money would be placed annually in the loader CRF. RA Clarke said contributions to the CRF were \$25,000 and a larger sum would need to be in the loader fund. He said the Capital Improvements Program came about because in the past the Board took out money, so the department was short and needed to play catch-up. Chair Jarvis said we can't put in the amounts recommended by the CIP due to the economic times. She said the CIP is to avoid peaks and valleys in taxes, but the economy has put a hole in best planning.

RA Clarke and Mr. Valladares agreed \$100,000 should go in for the loader. Mr. Valladares asked what the advantage is of splitting the items into separate funds. Chair Jarvis replied that Selectman March was concerned that a Board could empty a single account. Selectman Bickford said it is easier to track with separate funds, but you don't have the flexibility you do if the items are combined.

Mr. Valladares noted that if all the items were together in one account and, in the future, the department decided it didn't want a backhoe, it could get what it wanted. Chair Jarvis said a backhoe account could be discontinued at Town Meeting and the funds returned to the General Fund. Mr. Valladares said the loss of flexibility might outweigh the advantages of tracking ease.

Fire Chief Peter Varney commented that if a major breakdown occurred, the Town could tap into the combined account. RA Clarke said setting up a new account would be delayed by having to wait until Town Meeting. Selectman Bickford said the Board sought what the Highway Department wanted concerning the issue. The Board briefly discussed other articles having to do with the Highway Department.

5. Appointments or Public Hearings

AC Rendinaro said George Gale submitted a request to fill the vacancy on the 1772 Meetinghouse Restoration Committee on October 10, 2010 and had re-submitted it as no action was taken. In the letter, Mr. Gale, a restoration contractor and timber

framer, indicated he served as chair of the committee in the past, secured an LCHIP grant during that time, and organized several large scale public events at the site.

Selectman Bickford said he was opposed to any action at this time, as he needed to clear up issues with Mr. Gale due to his letter of resignation, in which he cited a Planning Board matter. He said Mr. Gale, in 2006, reported the structure was in bad repair and asked for support of a warrant article for \$20,000. Selectman Bickford said the HSR found that the roof and foundation were solid, and that the \$20,000 was never used.

Ms. Allyn, chair of the 1772 Meetinghouse Restoration Committee, said Phase II of the HSR, the point at which the committee is now poised, calls for replacement of the roof. She said the committee unanimously voted to recommend Mr. Gale serve on the committee, which was reported to the Board, and wants him as part of its complement. She said he is dedicated, committed, and possesses the expertise the committee needs. Ms. Allyn said she hoped personal feelings would not weigh in on the Board's decision on appointing Mr. Gale.

Selectman Bickford said the committee's charge is to be reviewed annually.

6. Return to Department Reports

Fire- Chief Varney presented the Board with the calls for service report. Chair Jarvis noted 307 calls in 2010 reflected a decrease of 10 per cent from the previous year, and that medical calls represented over 50 per cent of calls. Regarding requests for Mutual Aid, Chief Varney said the Town is getting back what it's giving. He indicated help came in 54 times and the Town went out, 65.

He told the Board James O'Reilly's residence in Copple Crown burned recently, and, during the fire, the driveway became impassable due to ice. He asked the Board what procedure he should follow to get sand down for emergency vehicles, when the Town vehicles are unavailable. He said it was considered part of fire suppression, and the Town could bill the homeowner, who might then be able to file the cost on an insurance claim. Selectman Bickford told Chief Varney to do what he had to do, and that the decision came under his powers. Chair Jarvis suggested finding people who sand in different parts of town. Chief Varney said he did not have the budget. Chair Jarvis said there was a need to protect the fire department and mutual aid personnel. Chief Varney said he could give the Board a list of those who could sand that it could approve, as someone has to pay the bill. Chair Jarvis asked him to check with other towns to see what they do.

Marc Behr said the ambulance does not have four wheel drive, and long, unplowed driveways cause a real problem, as a stretcher cannot be pushed through snow. Chair Jarvis said Town funds cannot be used to maintain private roads except in an emergency. Chief Varney said that did not solve the problem. He said there was no Town ordinance requiring maintenance for emergency access.

He indicated he would get some estimates to repair vinyl siding that blew off the fire station.

Chair Jarvis said AC Rendinaro had completed research on the Fire Department's revenue fund, and the warrant would include an article to dissolve the revenue fund and one to establish a revolving fund. She said billing expenses would go in and out of it. Chief Varney said he was concerned with the word

“surplus.” He said if money were in the fund, he would want to be able to use it and not have a separate article for it. He wanted capital items for the ambulance to come out of the account.

Mr. Behr suggested the phrase “purchasing a replacement ambulance” be changed by removing “replacement.” He said in the future, there might be a second ambulance. He also suggested keeping the wording as “capital equipment,” as today a capital item means something over \$10,000, but in 10 years that amount may not buy much. He said he didn’t want the fire department to keep coming to taxpayers to ask for things the department had the money to buy. Chair Jarvis said she liked to attach a figure to “capital.” Chief Varney said it was fine with him to keep \$10,000 in relation to “capital.”

Selectman Bickford said he didn’t think much money was coming in from the ambulance. AC Rendinaro said there is \$155,000 in that fund currently. Chair Jarvis said it was not an issue to remove the word “replacement” in the article.

Board of Ethics – Board of Ethics Chairperson Barbara Hunter came before the Board to discuss articles to be placed on the warrant. She said the BOE completed its review of the Code of Ethics to address any problematic items and wanted to bring its suggestions to the residents. She reviewed the recommended changes, among them: moving the definition section to the beginning, removing wording that deals with the appearance of a conflict of interest from the “Purpose” section, replacing “require” with “request” testimony, and minor changes for consistency.

Selectman Bickford said he liked what he saw, and wanted to compare the ordinance to an article on Ethics written by the Local Government Center. Ms. Hunter said the language changes were for greater ease of understanding. In response to Selectman Bickford’s question regarding removing “appearance of a conflict of interest,” she said the phrase is repeated under Code Provisions, and the BOE found it redundant to keep it in the Purpose section. Selectman Bickford said he would like “appearance of conflict” totally out of the document. Ms. Hunter said many people brought in definitions, and “appearance” is in the Definitions section. Chair Jarvis said the term is subjective. Ms. Hunter said if a complaint is brought forward, it needs support. She said it may be found that there is no appearance of conflict, but there needs to be a process to bring forward a complaint.

Chair Jarvis said now only a resident can file a complaint, so many taxpayers or those with an attorney cannot file. She said that cuts out a large chunk of people. Ms. Hunter clarified that a resident can file a complaint on behalf of someone else. She said that was in the original code that the voters agreed upon. She said the BOE would have to look at it in the future.

Selectman Bickford said the minutes of May 14, 2007 indicate that Ron Malone, one of the group that drafted the Code of Ethics, asked Attorney John Teague about the “appearance” issue and Attorney Teague said a framework for “appearance” was needed. Ms. Hunter said the BOE tried to get the minutes from the draft committee and could not discover many rationales.

Selectman Bickford said he was concerned about nepotism. Ms. Hunter said the majority of the BOE felt it should stay. Selectman Bickford said the son, brother, and daughter-in-law of Chief Varney serve on the Fire Department, and he

was concerned someone would bring up nepotism. Ms. Hunter said the BOE is working on a presentation to help others understand what could create a problem. Chair Jarvis said a fire department is typically a family affair, but now the NDFD members are considered employees. She said if people needed to leave, it could decimate the Fire Department. Ms. Hunter said nepotism seems to be a generic ethics ordinance provision.

AC Rendinaro said the NDFD does a good job of breaking up administrative duties. She said they have done a good job of maintaining a standard. Ms. Hunter explained the issue as a person cannot hire only relatives, but relatives can be hired.

Mike Gelinas said he had earlier brought in a proposed article to rewrite the Code of Ethics, but would try to stay within their Code. He now asked the Board not to place his version of the Code on the Warrant. He said he wanted to withdraw what he'd presented and instead request that three articles go on the Warrant. Mr. Gelinas said he wanted to remove mention of "appearance of conflict of interest" and the section that a person who serves on a board cannot appear before that board, since the Local Government Center has stated an appointed or elected person may hold a position if there is written public disclosure. His third request dealt with the section regarding no public servant shall electioneer. He wanted to specify what is a misuse.

Ms. Hunter said the BOE talked about electioneering in that case, and it is covered under an RSA (98-E). She said if an RSA exists, it comes into play. Selectman Bickford said the BOE went to Town Counsel for procedure. Chair Jarvis asked that a typewritten version of that go to AC Rendinaro so the Board could review it.

Selectman Bickford read aloud a letter Marcia Clarke sent the Board regarding statements made in Mr. Gelinas' cover letter. She indicated that the \$2,000 in legal fees he cited saved the Town millions of dollars in possible lawsuits, and that no state statute or constitutional rights were violated as implied; rather, employees' private citizen rights were protected. Mr. Gelinas said he agreed.

7. Old Business

Bestway Contract – **Motion by Chair Jarvis to approve and sign the Solid Waste and Construction Debris Disposal Agreement between the Town of New Durham and Bestway Disposal of Belmont, NH; second by Selectman Bickford. 2-0.**

Motion by Selectman Bickford to authorize Chairperson Terry Jarvis to sign the contract between the Town and Bestway Disposal; second by Chair Jarvis. 2-0.

Purchase Orders – Chair Jarvis said the Board needed to sign for the first of three payments for work on the fire station by Michael Fontaine. She explained the purchase order is for the full amount, but the payment is for the first third. She said the purchase order for repair to Engine #1 is for \$9,967.18.

Motion by Chair Jarvis to waive the purchase policy for repair of Engine #1; second by Selectman Bickford. 2-0.

Motion by Chair Jarvis to sign the purchase order from Lakes Region Fire Apparatus of West Ossipee for repair to the pump on Engine #1 in the amount of \$9,967.18; second by Selectman Bickford. 2-0.

The Board signed the purchase orders. The Board also signed a deed for the Shirley Cemetery.

AC Rendinaro reminded the Board of the warrant presentation live on Community Access TV, which is usually done from the library. She is to check on availability.

Budget Items – Chair Jarvis said some changes in previously approved budget lines had occurred. She said line 4140-630, Government Implementation, needed to be increased.

Motion by Chair Jarvis to approve General Government account 4140 under Election and Registration in the amount of \$73,929; second by Selectman Bickford. 2-0.

Motion by Chair Jarvis to approve General Government account 4155, Personnel Administration, in the amount of \$502,443; second by Selectman Bickford. 2-0.

Chair Jarvis said the Capital Outlay and Equipment budget had been approved at \$326,000, but figures on the dump truck, grader, and police cruiser had changed.

Motion by Chair Jarvis to approve account 4902, Capital Outlay and Equipment, in the amount of \$363,763; second by Selectman Bickford. 2-0.

New Budget Item – Boodey House – Cathy Orlowicz came before the Board to present a budget figure regarding the Boodey House. She said she received correspondence from Arron Sturgis regarding the balance due him for work performed dismantling the Boodey House. She said the balance due had been \$11,110.85, and the Boodey House Committee made a payment of \$1,467.90, bringing the balance to be paid to \$9,642.95. She said \$632 was raised in December 2010 and January 2011, so the new balance is \$9,010.95. She said she was hopeful to continue fundraising, but the Committee would be unable to raise \$9,000 by the end of the year, which is when Mr. Sturgis wants to be paid in full. His letter indicated he would be willing to be paid in half years, rather than monthly.

Selectman Bickford asked if this would be a warrant article. Chair Jarvis said it could be a budget item. She said, based on research, in the signed agreement accepting the gift of the Boodey House to the Town, a previous Board committed to paying if fundraising did not cover the costs. AC Rendinaro said it was the obligation of the Board to pay. Ms. Orlowicz said that the Board agreed to support it by any legal means, when the building was accepted. Selectman Bickford said he did not recall that, and that the Board did not contract with Mr. Sturgis.

Ms. Orlowicz said she had asked for the Town Historian monies so the dismantling project could go forward. She said costs beyond the \$8,000 discussed were incurred. Selectman Bickford said the Board did not indicate it was an open checkbook.

Chair Jarvis said the \$9,000 could be added to account 4909. She said she would find the document the Board signed, and this Board could discuss it further if needed.

Motion by Chair Jarvis to revise the previous approval of account 4909, Improvements, and to reflect a new line for Boodey House Dismantling in the amount of \$9,000, for a new total of \$36,000; second by Selectman Bickford. 2-0.

8. New Business

Warrant Review – The Board discussed placement of the warrant articles.

Article 7 – Discontinuation of the Uncared for Graveyards Expendable Trust Fund – Chair Jarvis said the Board voted last year to continue this fund, but the article this year is from the Cemetery Trustees. AC Rendinaro said the Trustees want a plan in place. She said the graveyards must be taken over by the Town before money goes into a fund to care for them. Ms. Orlowicz said the Cemetery Trustees take care of graveyards with perpetual care funds set up, and are responsible for Town owned cemeteries. She said uncared for graveyards must go through a process to declare them abandoned, and they must meet certain criteria. She said when the Town began the process, she agreed to care for the old graveyards. She said there has been a debate with the current Cemetery Trustees regarding the obligation of declaring the graveyards abandoned. She told the Board the Trustees said they would contact the Attorney General's office, but that has not happened. She said she has stopped caring for the graveyards due to family commitments. She said if the graveyards were declared abandoned, the Cemetery Trustees would then be responsible for them.

Mary McHale said it could cost a lot of money to discover the owners. Selectman Bickford said it would cost about \$850. He said the issue, like the 1772 Meetinghouse, is stabilized and does not need to be dealt with right away. Chair Jarvis said once the trust fund is closed, we'd never get the money back. Selectman Bickford said the Town would move forward on this issue at some point. Ms. Orlowicz said the Town must give notice to the descendents, and if no descendents come forward, the Town can take over the graveyards. Chair Jarvis said she did not want the article on the Warrant.

Article 24 – establish a revolving fund for Transfer Station – AC Rendinaro said the Transfer Station earned \$38,000 this year; and, with this article, earned monies would not go into the General Fund. Chair Jarvis said she wanted to ensure bills could be paid from the revolving fund.

Chair Jarvis said she wanted to meet with the Trustees of the Trust Funds regarding the possibility of combining the two Shirley Cemetery CRFs.

Meeting with Department of Revenue Administration – AC Rendinaro said she had arranged a meeting with Brett Purvis and Associates, MRI, Town Counsel, DRA, and the Board for January 31, 2011. She said Steve Allen wants a prior meeting without DRA representatives. Chair Jarvis said her questions regarding that needed to be voiced in non-public session.

Direct Link – Chair Jarvis said last year information regarding Town Meeting went out in the Direct Link publication. Selectman Bickford said similar

information could be found in the Town Report. Chair Jarvis said there was money for one town wide communication.

Selectmen's Report – Chair Jarvis said she wrote the annual message from the Board for the Town Report, and asked that edits be put in her box. Ms. Allyn pointed out that Jeannie Forrester's term was not mentioned. Chair Jarvis said she left out a lot of information as she was trying to fit the report on one page. AC Rendinaro said staying to one page was a suggestion.

9. Schedule Next Meetings

The Board scheduled its next business meeting for January 31, 2011 at 7:00 p.m. at Town Hall.

The Board tentatively scheduled its next budget meeting for January 24, 2011 at 7:00 p.m. at Town Hall.

10. Approval of Minutes

The Board tabled approval of minutes until January 24, 2011.

11. Any Other Business

Selectman Bickford brought up that the deed for the lot abutting the 1772 Meetinghouse had been lost. He said Land Use Administrator David Allen contacted the surveyor, so another one could be done. Selectman Bickford said he also called Tony Eldridge.

Chair Jarvis said the money for a bulletin board outside Town Hall had been appropriated, but the style picked was not for outdoor use. AC Rendinaro said she would get a better deal.

Selectman Bickford said the Board should review the audit, which is back. He said it seems a conflict exists regarding the Transfer Station taking cash on site. He said that needs to be clarified to be in compliance.

Selectman Bickford noted the electricity use at the library is high, and wondered if the floodlights after hours were necessary.

12. Non-public Session

Motion by Chair Jarvis at 11:10 p.m. to enter into non-public session under RSA 91-A:3 II (c); second by Selectman Bickford. A roll call was taken. Jarvis – aye, Bickford – aye.

13. Return to Public Session

Motion by Chair Jarvis to authorize AC Rendinaro to contact Brett Purvis's bond company tomorrow and take the actions advised by Town Counsel; second by Selectman Bickford. 2-0.

14. Adjournment

Motion by Chair Jarvis to adjourn at 11:48 p.m.; second by Selectman Bickford. 2-0.

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.