

New Durham Board of Selectmen

Public Meeting Minutes ~ April 16th, 2007

Town Hall

Members present: Chairperson Ronald Gehl, Peter Rhoades, David Bickford

Also present: Town Administrator April Whittaker, Road Agent Mark Fuller, Police Chief Shawn Bernier, Interim Fire Chief Rod Nelson, CEO/BI David Lindberg, Town Historian Cathy Orlowicz, Officer Jason LaMontagne, Thomas Beeler, Marcia Clark, Cynthia Copeland, Skip Fadden, George Gale, Mike Gelinias, Mary McHale, Ed Neister.

1. Call to Order: Chairperson Ronald Gehl called the meeting to order at 5:38 p.m. He stated Monday's meeting was postponed due to the storm.

2. Public Appointment: Cynthia Copeland, Executive Director of the Strafford Regional Planning Commission, met with the Board to discuss the realignment and re-designation of the Seacoast Metropolitan Planning Organization (MPO). She explained that currently the Seacoast MPO consists of the SRPC and a portion of the Rockingham Planning Commission. The proposal before the Board for support is for the realignment of the MPO to coincide with the planning commission boundaries. She said 75 per cent of the population must approve the new designation. Once approved, the request would go before the Governor who would sign off on it. She explained that the change in the MPO boundaries would have no effect on existing projects in the Department of Transportation Ten Year Plan. She cited increased integration of transportation and land use planning.

Chair Gehl noted that administratively, all functions of the MPO occur within the Planning staff and that the needs of the Seacoast area and Strafford County were sometimes at odds. He said the change to each Planning Commission being its own MPO would be beneficial.

Ms. Copeland read from a Questions and Answers handout for the benefit of the attending public. Please see attached document. She also noted a letter from former DOT Commissioner Carol Murray that supported the re-alignment, as it would correct the boundary problem and lead to improved management efficiency.

Ms. Copeland told the Board that the Strafford MPO would be in a better position for federal transportation funds, as it would represent 18 communities, rather than 32.

Air modeling projects were discussed. Chair Gehl said air quality has implications for transportation project approvals, and the type of gasoline allowed. Ms. Copeland said the county was considered non-attainment, meaning not meeting EPA standards that include allowable amounts of ozone, and therefore eligible for money for congestion mitigation. She said air quality had improved, leading to more room within the pollution budget.

Motion by Chair Gehl to support the realignment and re-designation of the Seacoast MPO to the Strafford Metropolitan Planning Organization; second by Selectman Peter Rhoades. Selectman David Bickford said he would like input from the Planning Board. Planning Board member Cathy Orlowicz said she had no questions at this point, that the realignment seems straightforward and she would support the resolution. **The motion carried unanimously.**

The Board signed the Resolution. Chair Gehl read the Resolution, which cited improved effectiveness and integration of transportation and land use planning. Please see attached document to the Minutes.

Road Agent Mark Fuller joined the discussion, which moved to potential grant opportunities for Davis Crossing Road, a project that has become more urgent in the wake of the most recent storm. RA Fuller said the culverts have separated. Chair Gehl noted the Capital Reserve Fund toward the re-construction project, and described Davis Crossing Road as a critical transportation corridor in town and surrounding communities.

Ms. Copeland said the state legislature signs off on the 10 Year Plan during even years, determining how federal funding is divided in the state. She commented that the allotted \$145-146 million represents an under funding. The legislature has prioritized only emergency and safety projects. Ms. Copeland met previously with Town Administrator April Whittaker and RA Fuller to discuss the Davis Crossing Road project and it went on to the Technical Advisory Committee. Following the committee's recommendation, it went to DOT last week with modifications. Ms. Copeland said she missed the phone call of the Assistant Commissioner of DOT regarding projects, but she would connect at some point and discuss what can be done. There are now safety concerns regarding the Davis Crossing Road project. She said she would need a letter of support from the Board and would add information on this most recent storm event. She said she would advocate for funding because the Town is proceeding exactly how DOT wants

Chair Gehl asked the Board to sign the letter of project support as provided by the Town Administrator. There were no amendments or additions to the draft letter. The Board duly signed the letter.

TA Whittaker advised that "Hazard Mitigation Funds" were apparently used for the May flood repairs, so she felt that "Bridge Aid" may be the next possible source of funding, and met with RA Fuller and Ms. Copeland. Chair Gehl confirmed the Davis Crossing project would be eligible as a bridge project. RA Fuller described the history of the bridge and explained that minimal engineering was necessary. Chair Gehl said plans have been developed. He added that the Town would do some of the labor. He said the project has been in the works for several years, and the CRF was created to demonstrate community commitment in hope of receiving Hazard Mitigation Funds. He said \$323,000 was the approximate cost of the project. RA Fuller said it could be done for less with the Town doing in-kind work. TA Whittaker opined that the revised project would serve residents and commuters. RA Fuller said there were no other projects to this extreme. He remarked that Mother Nature is beating us faster than the grants are coming in.

TA Whittaker reminded the Board there are two vacancies on the Strafford Regional Planning Commission. Chair Gehl asked if the Planning Board could come up with a representative or two for the Board's review and approval. He said the Commission deals with sound planning practices and funding possibilities.

Ms. Copeland mentioned wanting a Regional Emergency Management plan, and noted an innovative land use guide from DES.

3. Department Reports

Highway Department – Chair Gehl said he was amazed by and appreciative of the highway department crew's efforts, as well as the Police and Fire Departments for getting the Town through Monday's storm. He said all crews worked together, but that RA Fuller and his department deserved the most credit.

RA Fuller thanked Chair Gehl, joking that Chair Gehl was now a dam specialist. He said everyone helped to make his job easier. He said roads were lost all over but every road is now passable in at least one lane except Cook Road. He indicated Valley Road needs extensive work, and that a contractor he contacted can rebuild to our specs and under our supervision. The road needs additional culverts, upgraded culverts, and some excavations to a cost of \$50-75,000.

He added a contractor would be needed to complete work on South Shore Road so his crew could continue work on the gravel roads and smaller projects. He indicated a contractor would be needed on the dirt section of Cople Crown Road.

Chair Gehl summarized that there is too much work for the Town crew to do in a short time. He said he and RA Fuller looked at Valley Road this afternoon and it would require pavement cuts and repaving. He said going to outside firms would be a necessity, and asked for the Board's support in this. He added that the Town has a reasonable expectation of reimbursement for said work from FEMA, and that the Town has learned what FEMA wants.

TA Whittaker advised that no information re federal funding had been confirmed, as yet, by the Office of Emergency Management, but given the situation, the town should move forward with an expectation of probable FEMA reimbursement. It had been noted from many communities that the flooding was worse than the May 2006 flood event in which FEMA funds were released.

In response to Selectman Rhoades' question, RA Fuller said his crew could do the repairs, but then no scheduled work, such as projected summer work and maintenance, could be done. RA Fuller and Chair Gehl suggested the quoted rate of \$110 an hour by the contractor for South Shore work was a good price. RA Fuller said he would ask that contractor to do the work on Valley Road, also. Chair Gehl said that given the likelihood of reimbursement, the Town would be in good shape. In the worst-case scenario of no reimbursement, some Highway Block Grant money would have to be used, so some paving projects couldn't get done. RA Fuller said if his crew did the repairs, foregoing maintenance, roads would be lost in subsequent storms. He cited neighboring towns that have contracted trucks and contractors.

Chair Gehl asked for a more detailed rate schedule from the contractors. Selectman Bickford asked if RA Fuller felt confident about the FEMA money. RA Fuller indicated if the County was declared as a disaster area, the Town would get assistance money. Discussion ensued about the process of applying for FEMA monies and the pictures being taken for documentation. Chair Gehl said monies needed now for contractors were for earthwork, not paving.

Motion by Chair Gehl to authorize expenditure up to \$75,000 in outside contracting under the direction of the Road Agent for Valley Road and Merrymeeting Lake Road systems; second by Selectman Bickford. The motion carried unanimously.

RA Fuller reported if residents of the Chamberlin Way development had paved driveways so the necessary apron could be smaller, those 27 aprons would cost approximately \$2,700 – 2,800 for the placement of mailboxes. Instead, he pointed out that a lot of gravel work could be done for less. Selectman Rhoades suggested the residents could contract as a community. TA Whittaker said the mailboxes were the only outstanding element of the Chamberlin Way development ~ as built street plans, and signage had now been taken care of. Chair Gehl said he did not see storm damage on those roads and Selectman Bickford said he was impressed with the way Chamberlin Way had held up.

The Board recessed at 7:05 p.m. and reconvened at 7:15 p.m.

4. Public Appointment II

The Board met with Mike Gelinis of the snowmobile club. Mr. Gelinis said the Club would like to install a gate at the trail at the far left of the upper parking lot of the Town Beach. Depending on where the optimal placement could be, the gate would be on Town property or a landowner's. He also said the club wanted to complete ditch work and install a culvert for erosion control in the Devil's Den area. With Board permission, it could be done under a DES permit. Chair Gehl clarified that the gate installation would be to restrict wheeled vehicle access.

Selectman Bickford said he disliked this type of gate because people had been killed. He said it could be a liability if the iron bars were not kept up. He said netting could be used. Police Chief Shawn Bernier pointed out that three of the four fatalities were due to intoxication. RA Fuller said netting would be ripped. Chair Gehl asked if there were any alternatives. Mr. Gelinis said the state feels the gates are a necessary evil. Chair Gehl said someone getting hurt would be distasteful, but the chance was remote. Chief Bernier said he would have patrols in that area.

Motion by Chair Gehl to approve the placement of a gate as described at the upper parking lot of the Town Beach; second by Selectman Rhoades. Gehl – aye, Rhoades – aye, Bickford – nay. The motion carried.

Motion by Chair Gehl to approve the improvements of Devil's Den Road off North Shore Road under the review and direction of the Road Agent; second by Selectman Rhoades. The motion carried unanimously.

5. Non-public Sessions

Motion by Chair Gehl to enter non-public session at 7:30 p.m. under RSA 91-A:3 II (a) to discuss potential hiring; second by Selectman Rhoades. A roll call was taken. Gehl – aye, Rhoades – aye, Bickford – nay. The motion carried.

The Board met with TA Whittaker, Chief Bernier, and Officer Jason LaMontagne regarding an Emergency Management position, the duties of such a position and outstanding planning and documentation projects that needed to be addressed during 2007. Compensation and promotion issues were discussed given the greater workload, if the position was offered to Officer LaMontagne.

Motion Rhoades, second Gehl to return to regular session, vote 3 – 0. The Board reconvened in public session at 8:42 p.m. No decisions or actions were made by the board and the board took the matter under advisement pending further future discussion.

Motion by Chair Gehl to enter non-public session at 8:42 p.m. under RSA 91-A:3 II (c); second by Selectman Rhoades. A roll call was taken. Gehl – aye, Rhoades – aye, Bickford – aye.

The board met again with Chief Bernier and Officer LaMontagne. They informed the board of a pending criminal case of theft with an intent to extort in which a board member would be a witness for the prosecution as he was the victim of an extortion attempt.

Motion Gehl, second Rhoades, to return to regular session, vote 3 – 0. The Board reconvened in public session at 9:00 p.m. There were no actions or decisions made.

6. Citizens' Forum

Mary McHale, the Town's representative to Wentworth Development Corporation, said WEDCO was looking for existing space of 3,000 square feet in the area suitable for supporting small machines. Anyone with any knowledge of such space is asked to contact WEDCO.

Ms. McHale also commented that it was wonderful to walk into the fire station at noon on Monday and see 15-20 firefighters ready to go out and help.

7. Return to Department Reports

Fire Department – Interim Fire Chief Rod Nelson said training has been taking place the last few Monday evenings. He passed out a packet of information to the Board. He said the roster was at 31, with 14 certified firefighters and three receiving EMT certificates this weekend. He said there were five more first responders. He told the Board of a general clean up of the station and the area on Saturday from 8:30 a.m. – 4:30 p.m. followed by a family supper. Work to be done included outside painting and inside cleaning.

Chief Nelson invited Selectman Bickford to come into the station, and talk to the department to get to know the members. He stated that he did not care what people said about him, but he wished that the people who purport rumors and gossip would leave his department members alone. Selectman Bickford asked if department members were being harassed. Chief Nelson said he did not like to see criticism in the newspaper that was not justified – he would prefer people came to him to talk with him so that the truth could be told. He wanted the department's members to no longer be badgered.

Chair Gehl said he'd spoken with some firefighters and that false statements being circulated are denigrating the department. He said a Fosters reporter contacted him and asked why the department had fallen apart and was made up of uncertified people. He said after correct information was supplied to the newspaper, it was obvious there was no story and the paper did not run the article. He said there were lots of rumors and falsehoods circulating and he was getting tired of it. He further stated he could not be prouder of the department members and that there was great training going on with lots of vitality ~ something the department had not seen in a very long time. He said he was confident with the level of protection provided.

Chief Nelson said there were 14 people on duty during the storm, including two paramedics and 3 EMTs. He said the department was increasing the number of EMTs and EMTIs. He supplied pictures of the control burn held in Farmington and said a controlled burn could be held in New Durham if someone had a facility. He reminded the Board that at some point in the future, the Town would require a firefighter and EMT on duty. He reported there are now IV bags for the paramedics. He told Selectman Bickford he'd learned a lot from his father and was appreciative of the knowledge.

TA Whittaker said Michael Varney of the NDFD is out of the ICU at Dartmouth – Hitchcock Hospital, and all at the table wished him a speedy recovery.

8. Administrative Review

Motion to accept the resignation of Tom Swett from the Trustees of the Trust Funds with regret; second by Selectman Rhoades. The motion carried unanimously. Mr. Swett cited his increasing responsibilities with the Fire Department as his reason for leaving.

Motion by Chair Gehl to appoint David Allyn as Trustee of the Trust Funds to fill the term remaining until March 2009; second by Selectman Bickford. The motion carried unanimously. The Board signed the appointment form.

TA Whittaker gave the Board the Tax Collector's report to review. Selectmen suggested meeting with the Budget Committee on May 16, 2007 at 6:30 p.m.

Motion by Chair Gehl to appoint Dwight Jones as the Town's representative on the Wolfeboro Community TV board of directors; second by Selectman Rhoades. The motion carried unanimously.

TA Whittaker said the Ethics Committee requested Town Counsel to work with them to help understand the legal language of the Code of Ethics. She said the plan had been if the policy was approved at Town Meeting, all departments and boards, and commissions were to meet and go over the language with Town Counsel in any case. Chair Gehl said he was supportive of the request but wished to limit it to one hour. In response to Selectman Bickford's question, TA Whittaker explained that although there is only one line item for legal costs, bills may be broken out to track internally. Chair Gehl said \$12,500 has been budgeted for town specifics, but general help comes free from the Local Government Center.

Motion by Chair Gehl to authorize Town Counsel to attend a meeting of the Code of Ethics Committee, not to exceed one hour; second by Selectman Rhoades. Discussion ensued, and,

Selectman Rhoades made an amendment to not to exceed two hours with associated expenses and e-mail follow-up questions; second by Chair Gehl. The motion carried unanimously.

Motion by Chair Gehl to authorize Town Counsel to attend a meeting of the Code of Ethics Committee as amended, with one hour at the meeting plus travel and associated costs; second by Selectman Rhoades. The motion carried unanimously.

Motion by Selectman Rhoades to accept the offer of \$700 for the 1997 Ford Explorer, with the transaction completed within 10 business days; second by Selectman Bickford. The motion carried unanimously.

Motion by Selectman Rhoades to approve the transient's sale license of Andrew O'Hara for ice cream sales in New Durham, and authorize the chairperson to sign; second by Selectman Bickford. The motion carried unanimously.

Motion by Selectman Bickford to amend the transient salesperson's ordinance under the application procedure to explicitly require criminal background checks and drivers license background checks; second by Selectman Rhoades. The motion carried unanimously. The Board signed the amendment.

TA Whittaker told the Board D&C Construction will install a water line for NH Fish and Game into Merrymeeting Lake. It should be a three-week project, work expectations sometime in the summer. Chair Gehl said he was contacted about the project, and that the General Store's septic system needed to be removed and put across the road. He said he would ask that the project receive input from RA Fuller.

9. Schedule Next Meeting – The Board scheduled its next meeting for May 7, 2007.

10. Approval of Minutes

Motion by Selectman Bickford to approve the minutes of April 2, 2007 as amended; second by Selectman Rhoades. The motion carried unanimously

Motion by Selectman Bickford to approve the work session minutes of April 8, 2007 as amended; second by Chair Gehl. Gehl – aye, Bickford – aye, Rhoades – abstained, as he had not looked through them yet, but did not wish to hold up the vote.

11. Any Other Business

Selectman Bickford said he had received complaints concerning an abatement. Chair Gehl explained the abatement process, and that the Board generally acts on the assessor's recommendation given the professional oversight that is required. TA Whittaker said the person in question has been asked to fill out an abatement form, which is the first step per statute, but has refused to do so. She said she asked Town Counsel if the individual's letter, rather than the abatement form, would serve as the abatement request in order to facilitate the matter in this manner.

Selectman Bickford asked about progress on the website. TA Whittaker advised that she liked to invite the vendor in the first instances so that the Board is cognizant of the scope of work or project, and is fully informed in their decision-making. She was hopeful to invite the vendor to one of the board's May meeting dates. Chair Gehl said losing the Metrocast connection this week has been a setback. Selectman Bickford asked about adding the Fire Department scholarship to the website. TA Whittaker will address this issue.

12. Non-public Session III

Motion by Chair Gehl to enter non-public session at 10:20 p.m. under RSA 91-A:3 II (a), to discuss compensation of a public employee; second by Selectman Rhoades. Chair Gehl amended his motion to include that the only business to be undertaken following is adjournment. A roll call was taken. Gehl – aye, Rhoades – aye, Bickford – aye.

The board reviewed Chief Bernier's evaluation, backup information, and recommendation for an officer to be taken off the town's 6-month probation period. The materials indicated a successful hiring, and recommended a step raise to be retroactive to January 1, 2007.

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

The board returned to public session at 10:33 PM.

Motion Gehl, second Rhoades, to take Officer Koch off probationary status to fulltime officer status, and to authorize a step increase retro active to January 1, 2007, vote 3 – 0.

13. Adjournment

Motion Gehl, second Bickford to adjourn, vote 3 – 0. The meeting adjourned at 10:35 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.