

New Durham Board of Selectmen
Minutes of Meeting ~ July 9, 2007
Town Hall

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

Also present: Town Administrator April Whittaker, Road Agent Mark Fuller, Town Clerk Carole Ingham, Highway Department Supervisor Michael Clarke, Thomas Beeler, Robert Craycraft, Bonnie Dodge, Skip Fadden, George Gale, Mary McHale, Cathy Orlowicz

1. Call to Order – Chairperson Ron Gehl called the meeting to order at 7:02 p.m. and led the Pledge of Allegiance.

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

3. Department Reports

Highway – Chair Gehl welcomed back Road Agent Mark Fuller, following his successful neck surgery on June 18, 2007. Selectman Peter Rhoades led the room in appreciative applause for the excellent job Mike Clarke did in RA Fuller's absence. RA Fuller said Farmington Fish and Game Club have given the Town permission to regulate its dam at Club Pond. He said the decision was in the minutes of the Club's Board of Directors' meeting. Chair Gehl asked for a copy of those minutes for future reference material.

RA Fuller presented a statement of remittance of \$185,919.56 in State FEMA money, saying he had hoped it would be more, but there was the possibility of more coming. He said no monies for the ice storm are included; Town Administrator April Whittaker advised they had contra indicated their intent to pay for snowstorm plowing and snow removal. RA Fuller said there was still more repair work to be done.

He said he had applied for three Hazard Mitigation grants for projects at

- Davis Crossing Road;
- Birch Hill & Old Route 11;
- King's Highway & Copple Crown Road.

Chair Gehl inquired about the grader and Mr. Clarke reported it was back. He said financial feedback would come from Equipment Mechanic David Valladares. Selectman David Bickford asked about how the cost of transportation was handled on items when they were trucked back and forth due to the company's work. RA Fuller said the Town might be reimbursed on the transportation of the backhoe, although usually warranties cover just parts and labor. Selectman Rhoades advised Jenkins Road was rough, as it was done with equipment not in correct repair. Mr. Clarke told him two roads are still to be done, but the other roads done poorly have been corrected.

RA Fuller said the Town is locked in for this year on a price for sand. He reported salt has gone up four dollars a ton. He said he ordered 250 tons at last year's price, which would hopefully last to the end of the year.

Selectman Rhoades inquired about the shoulders on Chamberlin Way, wondering if the Town will wind up having to do the work rather than the truly responsible party, i.e. the developer. RA Fuller

responded that the engineer was to tell developer Steven Edwards to fix the ditch line. He added that efforts have been made to complete the other issues.

Mr. Clarke stated "Stop Ahead" signs have been put up on Valley Road. Chair Gehl commented that more vehicles are coming to a complete stop at the intersection of Ridge and Valley Roads since the painting of stop lines.

4. Administrative Review

TA Whittaker reported that Welfare Officer Yvette Martin is resigning, noting that her personal circumstances now dictated that she needed a fulltime position. Chair Gehl said Ms. Martin stepped in to the position on a part-time basis and proved highly efficient. He stated the Town owed her a debt of gratitude, and he trusted her new job would be beneficial for her. Selectman Rhoades indicated Ms. Martin paid great attention to detail, was the first to help those in need of assistance, but always reviewed files carefully to ensure individuals were pointed in the correct direction. He said she caused significant forward motion in the department and suggested sending her a plant for her new office.

- ❑ **Motion by Chair Gehl to accept the resignation of Welfare Officer Yvette Martin with sincere regret; second by Selectman Rhoades. The motion carried unanimously.**
- ❑ **Resignation of Sue Randall: Motion by Chair Gehl to accept the resignation of Sue Randall from the position of alternate on the Conservation Commission with regrets; second by Selectman Rhoades. The motion carried unanimously.**
- ❑ **Transportation Advisory Committee: Motion by Chair Gehl to appoint Mike Clarke as the town of New Durham's representative on the Strafford Regional Planning Commission's Technical Advisory Committee for a term from July 1, 2007 through June 30, 2008; second by Selectman Bickford. The motion carried unanimously.**
- ❑ **Motion by Chair Gehl to appoint Mark Fuller as alternate representative on the Strafford Regional Planning Commission's Technical Advisory Committee, term to end June 30, 2008; second by Selectman Bickford. The motion carried unanimously.**

The Board signed the forms and Town Clerk Carole Ingham swore in RA Fuller and Mr. Clarke.

Regarding Robert Craycraft's offer to serve as an alternate on the Conservation Commission, initially presented at the previous meeting, Chair Gehl remarked on how Mr. Craycraft's professional background would serve him well in the position, but asked if Mr. Craycraft were not spreading himself too thin. Mr. Craycraft replied that he had informed the CC that his time would be somewhat limited, but that he could act as liaison to the Planning Board, of which he is a member, and could assist outside of meetings. He added his availability would increase.

Selectman Bickford indicated Mr. Craycraft had advised of a possible resignation from the CIP committee because he was spread too thin. He encouraged Mr. Craycraft to wait and let someone else serve as an alternate. He pointed out that if Mr. Craycraft were an alternate on the CC, then no one on the CC could be on the Planning Board. Mr. Craycraft responded that there are several alternate positions on the CC so there are plenty of openings for all the individuals who may come forward. Mr. Craycraft stated he was spread thin on Monday evenings, but that there was no one else from the Planning Board to serve on the CIP Committee. Selectman Bickford said he was sure the chairperson of the Planning Board would. Mr. Craycraft pointed out the Advisory CIP Committee

had already stated their opposition to having the Chairman of the Planning Board on the Advisory CIP Committee due to possible Conflict of Interest issues in the event of a tie vote, and he added that George Gale would serve. Selectman Bickford stated he did not see why Mr. Gale could not. Mr. Gale advised that he was not a full member of the Planning Board.

Chair Gehl said since there were several alternate positions on the CC, and Mr. Craycraft would be a professional asset to the Commission, he was comfortable appointing him. Selectman Rhoades added that Mr. Craycraft is a known professional quantity and he had never seen him shirk responsibility. He said Mr. Craycraft would honor his commitments.

Motion by Selectman Rhoades to appoint Robert Craycraft as alternate to the Conservation Commission; second by Chair Gehl. Gehl, Rhoades – aye; Bickford – nay. Vote 2-1; the motion carried.

5. Public Hearing ~ Vault & Archives Grant

Chair Gehl opened a public hearing at 7:34 p.m. pursuant to RSA 31:95-b to discuss the acceptance of Vital Records grant monies in the amount of \$10,000. Ms. Ingham described the purchase by the state of a fireproof cabinet for vital records storage, archival quality storage boxes, and UV filters for fluorescent lights. She is investigating the price of microfilming. Chair Gehl said the consultant from the Secretary of State's office offered good recommendations regarding storage, security related issues and microfilming. He opened the hearing to public comment. Mr. Gale commended Ms. Ingham for her work securing the grant. Chair Gehl closed public comment.

Motion by Chair Gehl to accept up to \$10,000 in Vital Records grant monies from the New Hampshire Secretary of State; second by Selectman Bickford. Selectman Rhoades asked how money not earmarked for the cabinet and archival equipment would be spent. Ms. Ingham said microfilming would take priority. **The motion carried unanimously.**

Chair Gehl closed the public hearing at 7:40 p.m. TA Whittaker noted that a municipal records committee must be formed to meet statutory requirements. Chair Gehl said there was a distinct list of people involved, according to statute. The issue was placed on the next agenda.

6. Return to Administrative Review

TA Whittaker reported Paul Gelinas Jr. had applied for a permit to cross the road for sewer pipe on Meaders Point Road. RA Fuller indicated permits were generally granted subject to review and that the department had a series of forms to perform such tasks.

Motion by Chair Gehl to allow Road Agent Mark Fuller to review for a permit and determine conditions under which the road crossing construction can occur; second by Selectman Rhoades. The motion carried unanimously.

Chair Gehl summarized the issue of the request of Brian Crossan to use Town land regarding a right-of-way. He said the Town owned the lot adjacent to a lot on which the developer wished to construct a house. The request is to use Town land for the driveway for home construction. Chair Gehl voiced concerns, saying granting the request would be dictating the use of taxpayers' money for private purpose. He explained that the Town has given the Joys use of the land for access to their blueberry field, but this use would be different involving permanent construction. He said that a private developer would gain benefit from use of Town land. Mr. Clarke voiced concerns, as did TA Whittaker, who suggested that in her opinion, use of town land to the detriment of the taxpayers truly should go to Town Meeting. Chair Gehl said it would be a disconcerting precedent to set should the board vote to allow use of town land for the requested driveway access. He said when the

project was reviewed earlier, regarding issuing a building permit, a driveway was planned. Selectman Rhoades indicated the Board should at least respond allowing the developer to cross and re-cross with heavy equipment, since the Joys have use of Town land. Chair Gehl said heavy equipment access is different than a tractor. He stated it was not a similar use and the Town would have to police it. Again, TA Whittaker stated the permanency of a driveway.

Cathy Orlowicz asked about selling the property to the individual. Chair Gehl said sale of a lot needed to be an open sale, again, to ensure that justice is seen to be done on behalf of the taxpayers. TA Whittaker brought up the moratorium on the municipal water in the area and the consequent problems of continued development in the area. Chair Gehl said that particular Town lot is larger than most of the lots in the area. He said he saw no benefit to the Town in selling to a private developer especially with the pressures on the water system.

Motion by Chair Gehl to deny access to cross Town owned property for driveway construction for purposes of construction access to private lot 87. Selectman Bickford suggested there was no need for a motion, as, if the Board did nothing, the result would be the same. Chair Gehl deemed it a policy issue, and he wanted it behind the Board. He indicated he was familiar with the area from a previous building permit review by the board. **Second by Selectman Rhoades.** Selectman Rhoades again said he thought it would be a courtesy to allow Mr. Crossan to bring in some equipment. **Gehl, Rhoades – aye; Bickford – nay. Vote 2-1; the motion carried.**

Discussion ensued for Assistant fire fighter wardens, who can issue burn permits.

Motion by Chair Gehl to appoint Thomas Swett, Kevin Ruel, Michael Varney, Donna Swett, Sean Edeman, Drue Devost and Kevin Jenckes as assistant fire fighter wardens; second by Selectman Bickford. The motion carried unanimously.

The Board signed the appointment forms. Mr. Clarke said the current three hours twice a week are not sufficient to issue burn permits.

Chair Gehl swore in Mr. Craycraft as an alternate on the Conservation Commission and the Board signed the appointment form.

Town Beach Retaining Wall Discussion: TA Whittaker provided concrete material information for a retaining wall at the Town Beach. Chair Gehl said before sand can be added at the beach, a dredge and fill application must be filed. He said DES indicated the Town must provide a retaining wall with moderate slope behind to impede sand from filtering into the lake. He said boulders have been there but erosion has allowed some sand to slip beyond them. He said a geotextile fabric was needed to prevent sand from going through. He figured the wall could be two to two and one-half feet high.

Mr. Clarke said he'd seen the information at a vendors' show, and it would be higher than two and one-half feet.

Chair Gehl expressed preference for a natural rock wall. RA Fuller pointed out a step unit was available through the commercial source. Selectman Rhoades noted the precast blocks would provide a safe area for people to sit on. Chair Gehl indicated no money has been budgeted for the project. RA Fuller said an individual in town works with the precast material. Chair Gehl said the Board could provide direction to the Parks and Recreation Commission and would incorporate that body's decision into the application to the state. Mr. Clarke said the Town's backhoe would not be

capable of moving the existing rocks. He estimated a wall about 50 feet long. He said the highway department's equipment could handle the pre-cast blocks. Chair Gehl said the work would have to be done in the fall. TA Whittaker stated the funds may not be available. RA Fuller indicated there were other vendors. The price was estimated at \$2,000 plus or minus. The Board reached a consensus for using modular block. Parks and Recreation Commissioner Bonnie Dodge said she would report back to the Commission.

Merrymeeting Lake Water Quality Report: TA Whittaker provided the water quality report from Mr. Craycraft. He explained that the report was specific to Merrymeeting Lake, one of the clearer lakes in the state. He said the key is to minimize future impacts that would degrade quality. Chair Gehl said he attended the Merrymeeting Lake Association meeting and members discussed better practices in respect to fertilizer use. Selectman Bickford asked if there was any change in the water quality. Mr. Craycraft answered that the quality overall is still good and no real trends are evident. He noted localized problems, especially those related to recent washouts. He said the lake is very deep and therefore assimilates inputs. He added that the data collected by Paul Gelinis Sr., mentioned by Selectman Bickford, could be included, but that this report, ongoing since 1982, looks at clarity and nutrient levels.

Right to Know Law Seminar ~ Current Updates: TA Whittaker invited members of the Board to accompany her to the Primex Insurance seminar regarding Right-to-Know law on July 24th, 2007. It was noted that proposed changes in that law concerning electronic communication were not passed by the legislature, but expected the issues to return to the legislators next year.

7. Schedule Next Meeting

The Board scheduled its next meeting for **July 23, 2007 at 7:00 p.m. at Town Hall.**

8. Old Business

Milfoil Committee - Chair Gehl announced that Wayne Glidden volunteered for the Milfoil Committee. Selectman Bickford said Wolfeboro advertised for volunteers, and Selectman Rhoades said he supported doing the same. TA Whittaker will draw up an advertisement for volunteer assistance.

Generator Acquisition(s) – RA Fuller said he and Mr. Clarke spoke with a representative from Caterpillar, whose recommendation was to purchase an LP vapor fuel 25KW generator, option 9, for the fire station. RA Fuller said, with an average demand load of 11-13 KW per building, one 25KW generator may be sufficient for Town Hall and the Police station. He suggested two generators be purchased with the available money, with one hooked up to the fire station this year and next year appropriate money to hook up the other for Town Hall and the Police station. He said an automatic transfer switch would cost approximately \$4,500. Mr. Clarke said LP gas is at the fire station already. He told the Board he would get electrical quotes.

Selectman Rhoades said he wanted to know the total cost, included next year's figures if the plan were implemented. RA Fuller said a decision would have to be made if the electrician's part went out to bid, or if the Town used someone it had dealt with before. He said he would have to determine if a 25 KW generator would take care of Town Hall and the Police station, and get a figure for the hook-up fee to estimate the total cost. Mr. Clarke pointed out that in the past, one electrical company did all the legwork for a Town project, and then did not get the job when the project went out to bid. He mentioned one individual has done a lot of work at the fire station and has done well for the Town in the past. Selectman Rhoades said he would lean toward using a person who has done previous work for the Town. Chair Gehl asked for a ballpark figure to be presented at the next

meeting for two generators and hook-up at the fire station. Selectman Bickford asked if an engineer's help was needed, and Mr. Clarke said it was not.

Boodey House Committee fundraising – Chair Gehl said Ms. Orlowicz had looked into fundraising efforts for the Boodey House and money acceptance. Ms. Orlowicz updated the Board on the Committee's activities. She said it is awaiting figures for dismantling costs, but has volunteers to help with the process. She said some funds already donated toward the Committee's efforts are held by the treasurer, but the interest from those funds needed to be protected from being turned over to the General Fund. She said it costs \$750 to establish a group as 501 C3. She said the Board could establish a fund, thereby protecting the interest, and authorize the Committee to expend.

Chair Gehl asked how much it will cost to dismantle the building, and Ms. Orlowicz said the estimate was \$34,000. She said a location was needed for reconstruction. She said a portion of the building could be used as a museum, and added that stereo-optic cards of how the room looked when the First Free Will Baptist doctrines were signed exist. She said the agreement with the owner's stands as long as there is forward movement within five years. Chair Gehl noted that as part of the agreement, the Town taxpayers would not be encumbered.

TA Whittaker advised that Terry Knowles of the State's Division of Charitable Trusts indicated that the lack of an independent non-profit agency limits potential funding sources to them, so piggybacking on a non-profit group, rather than the Town, would be better for obtaining funding. Ms. Orlowicz said the Committee was looking into different foundations. Chair Gehl said, since Towns have other funding available to them, municipalities are not looked on as favorably in relation to obtaining grants. He said he wanted to ensure the Board would not be encumbering taxpayers. Ms. Orlowicz asked about the Board creating a fund to hold the collected funds. Chair Gehl said he did not want to damage the Committee's ability to get outside funding, just for the ease of holding money. Ms. Orlowicz pointed out that the process could get started. She said the New Durham Historical Society might allow the Committee to piggyback on it.

Chair Gehl asked if there would be an impediment to transferring monies from a Town trust fund, if established, to a 501-3(c). TA Whittaker said such an action would need the auditors' input, but obviously prior to this the town would be involved in book and record keeping ~ a task she was no in favor of. Selectman Bickford asked about the Meetinghouse fund, and Chair Gehl replied that it was a Capital Reserve Fund approved by Town Meeting. Ms. Orlowicz said if transferring to a 501 3(c), a grace period exists to qualify previous contributions, so if a trust fund were established to hold the monies, it would be possible to take additional action later.

Chair Gehl said he was leery of an overlap of private and municipal funds. Statutory regulations were reviewed. TA Whittaker stated that her gut feeling at this point would be to take the matter to Town Meeting to establish the Trust fund. Chair Gehl said in 1998, the Board was authorized to accept gifts of personal property, but he was unclear about accepting money. He cited Article 6 from the 1994 Town Meeting, wherein the Board can take and expend funds, but he wondered if the Town could hold funds in trust. Ms. Orlowicz said the money was donated for a specific use. TA Whittaker said \$34,000 was a lot of money within the agreed upon timeframe, and if the owners retook the building, donated money would have to be returned, with interest. Ms. Orlowicz agreed, hypothesizing if the building burned, for example, the grant money would have to be returned, and groups who donated money would be asked if they wanted the money back. She said in such situations, most groups do not want the money returned. She said the purpose of the trust could be changed at Town Meeting. Mrs. Whittaker reiterated the work associated for the town with the establishment of a trust.

Chair Gehl summarized the two sticking points as:

- ❑ if the Board accepts money, is it authorized to establish a trust fund for a specific purpose outside of a Town Meeting vote. Does the board have the authority to set up the Trust, as requested?
- ❑ how to move forward without the structure becoming a burden on taxpayers?

He asked if there was a better mechanism to attract more funding, and Ms. Orlowicz answered that she could not see one.

Selectman Bickford asked how the Committee's bookkeeping worked. Ms. Orlowicz explained she kept informal records, and the Treasurer keeps formal track. She said if a trust fund were established, the Trustees of the Trust Fund would handle it.

Mr. Craycraft said the entire project was projected to cost \$400,000. He said the Division of Historical Research indicates moving an historical structure diminished the chance of getting grants. Ms. Orlowicz agreed, but said the Committee was working with Jim Garvin of that same office, and that they would rather see a building moved than lost. She said she did not recall the \$400,000 figure. TA Whittaker said it appears on LCHIP applications.

Selectman Rhoades said it would be nice to get the Committee out of the gate. He wondered if allying with an independent non-profit group might be easier overall. Ms. Orlowicz said the Town owns the building, so the town will incur some cost at some point. She said she was only asking the Board to set up a fund. TA Whittaker said she would get the original Boodey House agreement and check with Town Counsel on the points raised. The matter is on the agenda for the next meeting.

Legal Opinion – Motion by Chair Gehl that the legal opinion from Upton and Hatfield with respect to placement of the Boodey House on J.C. Shirley property be released for public review; second by Selectman Bickford. The motion carried unanimously.

Chair Gehl said the opinion was favorable for relocating the Boodey House on the Shirley property, as long as it is not in the area that has to be kept forested. Selectman Bickford said this could be the beginning of further use of this area. He suggested taking an inventory of cleared area for other projects for additional Town use. He mentioned the gravel pit and RA Fuller stated the gravel pit has to be reforested. Chair Gehl said the file could be reviewed.

Ms. Orlowicz asked if she could report to the Committee that the Board gave its permission to relocate the Boodey House on the Shirley property. The Board agreed to a site walk at **6:30 p.m. before the next meeting on July 23, 2007.**

Route 11 junkyard – Selectman Rhoades suggested writing a letter to Mr. Duncan, indicating his property is close to compliance but not yet there, and that the Board wished to continue inspections. Selectman Bickford said if the Board completed its agreement with him, the matter would be an issue for the CEO. Chair Gehl said there had been no follow-up on the compliance schedule, and follow-up should be done. Selectman Rhoades said despite progress, the property still qualifies as a junkyard as there was not substantial compliance. He pointed out that Mr. Duncan's attorney did not attend the final inspection. TA Whittaker stated Mr. Duncan failed to comply with the timeline stipulations. Selectman Bickford advised taking him to court. Chair Gehl said going to

court would not be to the best benefit of the Town. Selectman Bickford asked why the CEO would not be used, and Chair Gehl said he had not been involved in the matter. Selectman Rhoades said the agreement called for substantial compliance and was signed by the Board, Mr. Duncan, and his attorney. He stated the agreement was not completed.

Motion by Chair Gehl to have Selectman Rhoades work with TA Whittaker to craft a letter to Mr. Duncan that indicates noted significant movement but not substantial compliance, and to establish a follow-up inspection on September 10th, 2007; second by Selectman Rhoades. Gehl, Rhoades – aye; Bickford – nay. Vote 2-1; the motion carried.

9. Informational Items

- ❑ PSNH Street Lighting Inventory: Selectman Bickford said he would look into street lighting.
- ❑ DES Notice re Increased in Wetlands Permitting Fees: The Board discussed Increased Wetlands Permit fees.
- ❑ New Financial Legislation: TA Whittaker said, in light of new legislation regarding town treasurers, the Board might want to consider changing to an appointed, rather than elected, treasurer.

10. Any Other Business

Chair Gehl reported seepage at the base of the stone embankment at March's Pond Dam. He said he'd seen a muskrat in the area. Robert Grillo of CMA Engineers, Inc. recommended lowering the pond elevation to determine if the leak is at the top of the embankment or somewhere else. Chair Gehl said the Dam Bureau has been notified. Mr. Clarke said they have been keeping the level up on the Chalk Pond side and that has been working well. Pressure on the head wall has been reduced. He said the seepage rate is roughly 100 gallons per minute. Chair Gehl stressed that there is no imminent structural collapse; the situation demands attention, but the Town is on top of it. He added there is a sound stone embankment there. Mrs. Whittaker advised that abutters to Marchs Pond had been notified.

11. New Business

Chair Gehl briefly reviewed the Board's work plan and goals, citing progress. In the area of financial administration, the Board wants to develop a purchase order policy. TA Whittaker will develop the same. He said it would help with accountability and financial tracking aspects. The Board also plans an update on market values re assessments. Intermediate assessments would avoid a town wide valuation. Chair Gehl said he would like to address the issue with Assessor Robert Estey and report back to the Board.

TA Whittaker reported a conference call will be held tomorrow concerning the new Town website to be created by Virtual Town Hall.

12. Approval of Minutes

Motion by Chair Gehl to approve the minutes of June 4, 2007 as amended; second by Selectman Rhoades. The motion carried unanimously.

Motion by Chair Gehl to approve the minutes of June 18, 2007 as amended; second by Selectman Bickford. The motion carried unanimously.

Motion by Chair Gehl to approve the non-public session of June 18, 2007 as written; second by Selectman Bickford. The motion carried unanimously. TA Whittaker said the sealed minutes would be kept in a sealed envelope in the vault.

Motion by Selectman Bickford to approve the minutes of the June 27, 2007 workshop minutes as written; second by Selectman Rhoades. The motion carried unanimously.

13. Non-public Session

Motion by Selectman Rhoades to enter non-public session at 10:12 p.m. pursuant to RSA 91-A:3 II (a) and c. A roll call was taken. Gehl – aye, Rhoades – aye, Bickford – aye.

The Board reviewed a mid-year pay raise and prior evaluation expectations of a town department head. The Board will meet with the Department Head in non-public session on July 18th, 2007 at 7 PM in the upper conference room at Town Hall.

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

14. Adjournment: Motion Gehl, second Bickford to adjourn, vote 3 – 0.

The meeting adjourned at 10:43 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.