

**New Durham Board of Selectmen**  
**Minutes of Meeting ~ September 10, 2007**  
**Town Hall**

**Members present:** 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, Assistant Fire Chief Russ Sample, Sgt. Jason Lamontagne, Thomas Beeler, John Crickett, Amanda Eason, James Goodrich, Elizabeth Kuzia, Stan Kuzia, Bernie Laughlin, Cathy Orlowicz, other members of the public

**1. Call to Order** – Chairperson Ron Gehl called the meeting to order at 7:06 p.m. He led the Pledge of Allegiance and called for a moment of silence in memory of Mark Jarvis.

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

**3. Public Appointment**

The Board met with resident Stan Kuzia regarding alternate access to Pine Point Road along the North Shore Road extension of the Charles E. McKay Sand Pit Roadway. This subject was brought before the Board previously, at which time road law was discussed. Chair Gehl said he had spoken with Mr. Kuzia. Mr. Kuzia explained residents in the area received a letter in June from attorney Arthur Hoover, representing Charles McKay, indicating that 300 yards of the Sand Pit Roadway would be closing to through traffic. He said that private stretch of roadway is the only alternative access for 22 homes on Pine Point Road.

According to Mr. Kuzia, at a meeting attended by 52 concerned residents, Thomas McKay indicated liability and maintenance concerns on the part of the McKay's spurred the closing. Attendees discussed four options:

1. Purchase a private right of way to pass over the area in question using a locked gateway;
2. Form an association to charge a fee of Pine Point residents who use the roadway to pay Mr. MacKay for travel rights;
3. Form a village association for the purpose of levying an annual tax, for payment to the Town to service the road as a private roadway
4. Bring an article for acceptance of the crossing road as a public roadway before the Selectmen to be placed on the Town Warrant.

Attendees favored option 4.

Mr. Kuzia said the road could be conveyed to the Town at no cost with a quitclaim deed, as the road is noted as free in Mr. McKay's deed to the property. Mr. Kuzia provided a

summarizing letter of the situation to the Board, as well as maps. He stated it was his understanding that the road met Town standards and would remain gravel.

Chair Gehl said he'd explained an article requesting road acceptance could be placed on the Warrant either by petition or from the Board. He suggested it might be favorable to have gated access to the area. Mr. Kuzia said in that case the landowner would still be liable. He said the majority of residents polled wanted the road acceptance to come before the voters.

Chair Gehl asked about the potential for increased traffic if the road became public. Mr. Kuzia replied traffic would not increase, as the residents there have used it for so long. Selectman Peter Rhoades noted that whenever a small group wants something, it must be considered if the residents living across town will think it's fair.

Chair Gehl suggested a site walk to review the conditions of the area and to help determine if there would be adequate benefit by accepting a private way with conveyance rights to the Town. He said he was leery of taking on additional maintenance issues for the Town, and that he wanted input from the Highway, Police, and Fire departments.

Selectman David Bickford said the Planning Board should be included and Chair Gehl said the Planning Board is involved in the process. Selectman Bickford asked under what statute a road is undertaken. Chair Gehl replied the layout and acceptance process. Town Administrator April Whittaker added that either the selectmen can layout a road, or the request is taken before the Town on the warrant. She said it should be a decision of the voters. She told Mr. Kuzia she would draw up a petition for him.

The Board scheduled a site walk for September 22, 2007 at 8:00 a.m., conditional upon receiving permission from Mr. McKay.

#### **4. Department Reports**

Highway – Road Agent Mark Fuller told the Board two of three intents for hazard mitigation he applied for were returned, needing more preliminary engineering in the form of additional specifications and quick plans. He asked if CMA Engineers, Inc. could be utilized, to finish the applications. The areas involved are Davis Crossing Road, a section of Kings Highway, and the Birch Hill, Old Bay Road, Old Route 11 area. TA Whittaker said the Town paid approximately \$1,000 for preliminary engineering. Chair Gehl asked RA Fuller to obtain an estimate from CMA for providing back-up information on the applications.

RA Fuller reported that Michael Clarke received his Master's as a Roads' Scholar at the Tech Transfer Center, and that culvert installation is progressing with the excavator. Regarding the generator, he stated that the septic tank needs to be moved. Chair Gehl remarked on the pending electrician's estimate. RA Fuller said the warranty would not start until the generator is hooked up. Chair Gehl said he did not want to lose the pricing.

Selectman Rhoades stepped down from the Board to discuss a formal request from the Town to move a telephone pole on Bennett Road at no expense to the Town.

**Motion by Chair Gehl to formally request the New Hampshire Electric Cooperative to move a telephone pole in the ditch line of Bennett Road and to authorize Town Administrator April Whittaker to correspond to that effect; second by Selectman David Bickford. The motion carried unanimously.**

Police – Police Chief Shawn Bernier stated his department passed the state Department of Safety’s juvenile compliance check with flying colors. He reported two burglaries (forced entries) on Middleton Road and Kings Highway, urging the public to be vigilant. Several members of the department have had instruction in taser use, DNA collection, and Breathalyzer use. Chief Bernier reminded parents that helmets are required for bike riders under the age of 16. Sgt. Jason Lamontagne said he would attend an emergency-planning meeting for Northern Strafford County on September 20, 2007.

Fire – Interim Fire Chief Rod Nelson reported 10 members in training. He said the truck is back in service after repair work of \$15,500. Air bottles had to be protected, the rims were refinished, the roof leaks repaired, and the pump repaired. Chief Nelson said this department was the first to buy a plastic truck and now the majority of communities use plastic. He thanked TA Whittaker and the Board for help.

Selectman Bickford noted the repair cost was double what Chief Nelson had expected. Chair Gehl said the \$7,500 was just for the pump repair, but other problems had been found during the routine inspection. Selectman Bickford asked how that would be handled budget-wise. Chair Gehl replied that the cost would be distributed among the fire department, the equipment mechanic and unanticipated expenses. Selectman Rhoades said the fire department budget still had money, and TA Whittaker acknowledged that Chief Nelson has been masterful in terms of not spending money knowing that he had this major repair. She said the truck repairs were safety related, and must be taken care of.

Chief Nelson advised that a road shut down for bridgework will affect an area of Farmington, and the NDFD will cover that part of town.

Assistant Chief Russell Sample presented changes in the plans for a fire station addition after collaboration with TA Whittaker, RA Fuller, and Chief Bernier. The configuration joins the police department and fire station, provides parking on a graveled area, allows police vehicles to leave from the rear, and continues the practice of fire department vehicles leaving from the front. A lot line adjustment, rather than a right of way or easement, with abutting property owner Mr. Murphy, was discussed. Asst. Chief Sample brought up the issue of a sub-surface heating oil tank that should be removed.

The Board reviewed the design. Chair Gehl noted the design showed a paved parking lot. Asst. Chief Sample explained that paving would not be considered for a long time. He said there has been no thought of a budget beyond the addition. The Board discussed placement of the generator with RA Fuller. Chair Gehl said the exact location of the septic tank should be determined. TA Whittaker said she was pleased with the 3D CAD designs and thanked Mr. Sample for providing them at no cost to the town.

The Board took a brief recess at 8:40 p.m. and reconvened at 8:47 p.m.

Asst. Chief Sample said the plan called for parking for 13 vehicles and provided a community room between the two departments, which would be helpful during emergencies. In response to Selectman Rhoades' question regarding snow plowing, RA Fuller said snow would be piled against the fire station and removed when the department had time. Selectman Rhoades asked if the existing doors could be used with newer fire vehicles that are apt to be higher than current ones. Asst. Chief Sample said the doors would work. He indicated there was no need to spend money on a new station. He said all emergency personnel advocate staying in the current facility and making upgrades. Chief Nelson said putting a building on the back of the station allows for a building for both departments for little cost. He suggested moving ahead piecemeal, to save money.

Chair Gehl said he was pleased to hear a concurrence among the police, highway, and fire departments. Chief Bernier said police access through the Post Office property would be helpful. He added the cruisers and staff vehicles can be kept in the back, and called the plan a win-win situation for the Town. He added that parking problems need to be addressed. Selectman Bickford said there were less than 13 spaces in the back, and Asst. Chief Sample said the figure was closer to 11.

TA Whittaker suggested if everyone was on board regarding the idea and Mr. Murphy was in favor of it, survey work could begin, language could be obtained from Town Counsel, and the idea could go before the planners. Asst. Chief Sample said the Planning Board has not yet been pulled into the process. Chair Gehl said there is a statutory requirement of Planning Board input regarding municipal improvements, but the plan was not yet in the stage to present to that board. Selectman Rhoades deemed the idea a great central plan and said he hoped the Town could get the easements to put it in place. Selectman Bickford stated he had a hard time buying into expanding the fire station. He said he was against adjoining wooden buildings, and was against a large percentile of impervious surface area on a small lot. He said if the Planning Board supports the idea, he may, also. Asst. Chief Sample said there would be no move to pave the parking area. Selectman Bickford said aggregate did not work for the Post Office parking area, as there was too much mud. Chair Gehl pointed out that any building will increase impervious surfaces, but as an area is developed, provisions can be made to redirect rainfall to avoid areas that could contaminate ground water. He said he understood Selectman Bickford's reservations, but did not feel it was an issue in this case. He spoke in support of centrally locating the Town's emergency services. Chief Nelson said the plan was the best they could come up with, without spending millions of dollars, which the Town cannot afford.

**Motion by Chair Gehl to authorize fire department personnel to move ahead in detailing out the conceptual plan for a fire station addition for further review by the Board of Selectmen; second by Selectman Rhoades.** The Board and Asst. Chief Sample discussed the use of grass blocks in the area, which are more expensive than pavement, but allow grass to grow through. Asst. Chief Sample said there was an approved septic system and that the drainage could be dealt with. Chair Gehl agreed that the intent of the impervious surface limitation would be met and that reinfiltration of rain that fell on the

parcel would be achieved. **Gehl- aye, Rhoades – aye, Bickford – nay. The motion carried.**

### **5. Old Business**

Chair Gehl reviewed that the controlled breach interim spillway is in place at March's Pond Dam. The DRA's formal approval for an emergency appropriation was discussed. RA Fuller said the Pond will be slow to fill up, as the ground was so dried out. TA Whittaker said the engineers will have the final plan back from the state by the end of September, so the Town can go out to bid to receive a price in November. Tom Goss has been given a timeline to go to the residents at Chalk and March's Ponds. Bernie Laughlin said residents of the area have had a meeting. He stated he was pleased with the Town's cooperation in the matter. He reported that March's Pond has come up an inch and a half with the recent rains. James Goodrich asked what would happen if an article for dam reconstruction failed at Town Meeting. Chair Gehl told him the temporary spillway must remain until reconstruction. Mr. Goodrich asked if he could attend Town Meeting as a non-resident. Chair Gehl said he was sure such things would be worked out with the Moderator. He said the highway department was ensuring as little water as possible is being lost from Chalk Pond.

### **6. Administrative Review**

- TA Whittaker informed the Board that she followed up on the Watershed Restoration and Assistance Grants fund and said it was unlikely the Town would get a grant to help with dam costs.
- She reported Moderator Jim Fenske asked for an appointee to the Budget Committee.
- She also told the Board the MS-5 is in, to set the tax rate. She said she was happy to report an unresolved fund balance of \$565,589, less \$25,000 in the emergency appropriation. She said it was recommended to hold 10 per cent of total taxes, and that the Town was getting close to that. The Board signed the auditors' report.
- TA Whittaker said the landfill gas monitoring has been decreased to once a year.
- She told the Board that "Cartographics Mapping Services" is asking for the town surveys, which includes 400-700 plans, to work with for a year. She said she was hesitant to let all the plans out of the office, and asked if the Board would approve Cartographic scanning each survey at \$3.00 per survey for a cost between \$1,200 and \$2,100. She outlined the positives of the proposal – the Town would have a back up; the plans could be placed on-line for staff use; the plans could be put on the website for public access; and it would protect the original plans by reducing handling. She said the funds could come from the professional services line in the Planning Board's budget. Chair Gehl said he would expect excellent quality from Cartographic scans, and felt the price was a bargain. Cathy Orlowicz said she would run the idea by the Planning Board and let the Board know on Wednesday. Selectman Rhoades asked if the digital prints would come quickly and TA Whittaker replied in the affirmative. She said Cartographic wanted to work with the originals, rather than the digitals. Selectman Bickford asked why this was not part of the

contract. TA Whittaker said it was, but this point was arrived at much sooner than expected.

**Motion by Selectman Rhoades to approve the scanning costs to proceed with digitizing the Town's surveys, pending the majority of Planning Board approval; second by Selectman Bickford. The motion carried unanimously.**

Mrs. Whittaker advised that the Ethics Committee was ready to wrap up their review and had requested legal time to finalize the Ordinance.

**Motion by Chair Gehl to authorize the Ethics Committee to obtain additional consultation with Town Counsel, not to exceed \$400; second by Selectman Rhoades. The motion carried unanimously.**

### **7. Return to Old Business**

Milfoil Committee Charge and Committee Appointments – Chair Gehl said he would like the committee to be appointed. The Board reviewed the revised charge of the Milfoil Committee. Selectman Bickford said he wanted to connect the committee to the state's criteria, so that in case the state changes the regulations in the future, then the committee's charge would change simultaneously. Chair Gehl asked if waiting to approve the charge would impede the committee's progress. He suggested committing to the committee's forward movement while reviewing the revised charge. He asked if Selectman Bickford was comfortable with the suggested appointees. Selectman Bickford said half of them showed up at the initial meeting. He said they could move ahead, even if the charge is not yet approved. Chair Gehl asked if another delay would hurt, and Selectman Bickford said Ed Neister was moving ahead. He explained that a charge is unnecessary to map out areas of milfoil, which is the next step. Chair Gehl said he hoped the Board was not slowing things down. Selectman Bickford said that, in order to appoint the committee, the charge could be approved and adjustments made to it.

**Motion by Chair Gehl to appoint the following individuals to the Milfoil and Invasive Aquatic Plants Committee:**

- ❑ **Mike & Michelle Downs**
- ❑ **Cynthia & Fred Quimby**
- ❑ **Alan McQuiston**
- ❑ **Wayne Glidden**
- ❑ **Sue & Arthur Hoover**

**second by Selectman Rhoades. The motion carried unanimously.**

**Motion by Chair Gehl to forward the draft of the Town of New Durham's Milfoil and Invasive Aquatic Plants Committee charge to the newly formed committee, as formulated by Town Administrator April Whittaker on September 10, 2007; second by Selectman Bickford. The motion carried unanimously.**

Review of Draft Financial Policies - The Board discussed the monetary thresholds for purchase orders in the draft purchasing policy. As an example, TA Whittaker said she went through the highway department manifests and discovered amounts rarely exceeded \$1,500. RA Fuller said things are more expensive now, but that he did not care what the cut-off was. Chair Gehl said purchase orders are used for accountability and to keep things clear with vendors. He added that the majority of communities use Purchase Orders. Purchases between \$3,000 and \$15,000 require approval by the town administrator and receipt of three quotes. Competitive bidding is used for purchases over \$15,000. Selectman Rhoades asked if this draft is a replacement of the previous policy and Chair Gehl answered that it was. Selectman Rhoades suggested the competitive bid process was why the library roof went unfixed for seven years. Chair Gehl said the Board could waive competitive bids. Selectman Bickford brought up that in the language "chairperson or designee," the designee should be defined in terms of time in office. Other minor amendments were made. TA Whittaker advised that the set thresholds are close to other communities' that were set recently. Selectman Rhoades said he agreed with the dollar figures. Chair Gehl said the policy would take effect after a public hearing and passage by the Board. He asked the other members to be prepared to vote on the purchasing policy at the next meeting. The sealed bid process was also discussed.

Two-Week Vetting Policy - Selectman Bickford said that voting to appoint a candidate to a board, committee, or commission at a subsequent meeting would allow the Board an opportunity to research and give thought to the appointment. Chair Gehl asked if the Board would implement particular standards of research. He wondered if the town was moving toward background checks on everyone who volunteers to serve. He said he would not want the appearance of selectively vetting, or doing more research on different individuals. Selectman Bickford said the Board could participate in any kind of inquiry desired. He said it should be a thoughtful process, and that currently the Board apparently did not care who it appointed.

Chair Gehl said it could not be said that the Board does not care about positions filled. He said he saw no current problem. He said the Board could take it under consideration if a candidate came in without a recommendation from a committee or commission.

Selectman Rhoades noted if a policy is not in place, the Board could feel discriminatory against someone unknown. Chair Gehl said now appointment was at the discretion of the Board, and there could be situations in which a waiting period would be good. He said the renewal of someone's term, along with a recommendation from the committee, would not seem to require a wait. He said he was leery of inviting hearsay into the process. Selectman Bickford said the Board runs that risk every time it goes into non-public session. He told Chair Gehl he should listen to his constituents. Chair Gehl replied that he has had people tell him unfounded things about appointees. Selectman Bickford said, as selectmen, it behooves the Board to take time to deliberate. Chair Gehl said there would be a risk of getting into discussions of people's personalities. Selectman Bickford remarked it would give the Board a chance to talk with the appointees.

TA Whittaker advised that in her experience, most volunteers know they need to learn the process of whatever committee they will be working on. Chair Gehl was concerned with disconcerting volunteers. Ms. Orlowicz said there might be times when the Board would need to waive such a policy. The Board agreed to discuss the matter at the next meeting. Selectman Bickford asked if a way had been found to protect the interest on money donated to the Boodey House. TA Whittaker said the matter was before the DRA. Selectman Bickford asked how switching the website to Virtual Town Hall was progressing. TA Whittaker said photos have been sent in, and the Town seal has been composed. She said it is a huge project to write up the departmental information, and she and the staff have had little time, as they have been dealing with tax maps, welfare crises, job descriptions, and preparation for budget season. She said staff training also has to occur.

Tax Deeds – TA Whittaker said Town Clerk Carole Ingham would like input on impending tax deeds.

### **8. Schedule Next Meeting**

The Board scheduled the next meeting for September 17, 2007 at 7:00 p.m. at Town Hall.

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

**Motion by Selectman Bickford to approve the minutes of August 6, 2007 as amended; second by Selectman Rhoades. The motion carried unanimously.**

**Motion by Selectman Rhoades to table consideration of the minutes of August 27 until the next meeting; second by Selectman Bickford. Rhoades – aye, Bickford – aye, Gehl – abstained. The motion carried.**

### **10. Non-public Session**

**Motion by Chair Gehl to enter non-public session at 10:55 p.m. under RSA 91-A:3 (c) to discuss a matter that could affect the reputation of someone other than a Board member, and (e) to discuss threatened or impending litigation; second by Selectman Bickford. A roll call was taken. Gehl- aye, Rhoades – aye, Bickford – aye.**

The Board met with TA Whittaker who brought the board up to date regarding the results of assistance rendered to a welfare recipient under RSA 91-A: 3 II c.

Under RSA 91-A: 3 II e, Mrs. Whittaker discussed a case of continued litigation regarding code and land enforcement issues.

There being no further discussion in Non Public Session, motion Rhoades, second Bickford to return to regular session for the purposes of adjournment, vote 3 – 0.

The board returned to regular session, motion Rhoades, second Bickford to seal the non-public minutes in perpetuity re the welfare recipient, vote 3 – 0. Motion Rhoades, second Bickford to seal the minutes of the pending litigation for one year, vote 3 – 0.

### **11. Adjournment**

Approved: Board of Selectmen Minutes September 10<sup>th</sup>, 2007

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.