

**DRAFT**

**New Durham Board of Selectmen**  
**Minutes of Meeting ~ November 19, 2007**  
**Town Hall**

Members present: Ronald Gehl, Peter Rhoades, David Bickford

Also present: Town Administrator April Whittaker, Police Chief Shawn Bernier, Road Agent Mark Fuller, Sgt. Jason Lamontagne, Skip Fadden, Gigi Giambanco, Tom Goss, Art Hoover, Sam Horton, Elizabeth Kuzia, Stan Kuzia, other members of the public

**1. Call to Order** – Chairperson Ron Gehl called the meeting to order at 7:09 p.m. and led the Pledge of Allegiance.

**2. Citizens' Forum** – Art Hoover, chairperson of the Milfoil Committee, updated the Board on that body's progress. He cited three meetings, a meeting with Amy Smagula of DES, and the mapping of the milfoil on the Merrymeeting River. He said the DES did mapping, also, and the results were similar; although the Committee detected milfoil in March's Pond, which the state did not. Mr. Hoover said the draw down is at the four foot below norm level and will be kept there for two weeks. The Committee will put a plan together and apply for state funding. He said it is too late to apply for 2008 funding, but the request is listed for 2009.

Mr. Hoover said the plan is to ask the state to continue the draw down until a deep freeze. In the spring, the Committee hopes to get funding from private sources or the Town to create a Capital Reserve Fund. He believed the cost would be approximately \$10,000 to \$20,000. If treatment is not possible, the Committee will ask the state for another draw down in the fall of 2008, with the idea of receiving funding in 2009. He said a follow-up plan is to be developed to continue controlling the milfoil. Other ideas are to extend the guardrail by the unofficial launch to discourage boaters from putting in there, and installing a screen at the dam to prevent the plants from going over.

Mr. Hoover reported Ms. Smagula said if the plants are not treated, they will spread and could get into the lake. He said residents along the affected areas have noted fewer ducks, turtles, and fish. He went on to say that milfoil could cause stagnant water. He asked the Board about creating a fund to match the state's funding. Chair Gehl said the Board had anticipated a request, and asked for one in writing. Town Administrator April Whittaker asked about a more sophisticated boat washing facility at the Fish and Game launch, and Mr. Hoover said that would help.

Thomas Goss requested an update on the March's Pond Dam situation. Chair Gehl summarized details, including meeting with DES, the Dam Bureau, and the engineer to review changes due to the dam's reclassification to high hazard. He said there had been concern about the possible high cost of reclassification, but the meeting indicated there were no insurmountable odds. He told Mr. Goss a final design package will go out to bid in

time for concrete figures to be available at Town Meeting. TA Whittaker said the final construction price should be known in mid-January if all goes according to planning timelines.

Mr. Goss asked if the reconstruction was still in the budget. Chair Gehl said nothing had changed concerning that. Selectman Peter Rhoades asked what was being done to rally people's support. Mr. Goss said interested parties would participate in the upcoming Craft Fair, and that they were talking to people. It was discussed that Mr. Goss would be welcome to discuss loss of revenue, etc. with Assessor Robert Estey to present to the public, although the Board was cognizant of their responsibilities in this direction.

Regarding the relocation of a utility pole on Bennett Road, Sam Horton of New Hampshire Electric Cooperative told the Board there were two options. The Board could require NHEC to move the pole, by means of official correspondence stating requirement of relocation and the reason behind it; or, the Town could withdraw its request to move the pole in written form. He said the Board's previous letter "requested", as opposed to "required" NHEC to relocate the pole.

### **3. Public Appointment**

Regarding the status of the request to convert the private road owned by Charles McKay to a public road, Chair Gehl said the Board did not yet have input from the Planning Board, so the situation is currently the same. He said the Board is in receipt of correspondence from Mr. Hoover, representing the McKays, which will be taken under advisement.

Stan Kuzia presented the Board with information regarding Mr. McKay's efforts to donate his 300-yard roadway to the Town. Salient points were that the road has been maintained at state standards, and that it serves as an emergency access route to the residents of Pine Point Road. Mr. Kuzia said if one life were saved, that would make accepting the road worth it.

Mr. Hoover said he would attend the Planning Board meeting on Tuesday evening.

### **4. Department Reports**

**Highway** – Road Agent Mark Fuller said due to regulations for pumps and double walled pipe from fuel tanks, the Town will have to go with the original quote of \$35,000 to \$40,000. He clarified that that figure was not a bid. He said the dispensers could be computerized for improved tracking. Chair Gehl said increased financial accountability was preferred. He expressed a desire to meet with RA Fuller to review what must be included on the Request For Proposal from an engineering viewpoint.

Selectman Rhoades asked about used dispensers to save money. RA Fuller said he would not recommend that. He explained how each person will have an electronic key. What person and what vehicle fueled would be tracked. Selectman Rhoades was highly supportive of being able to review efficiency.

RA Fuller also reported that the Town received its share of the May 2006 flood reimbursement - \$11,130 - from the state. He asked to plan with the Board where to place the money with intent to encumber it.

RA Fuller told the Board there would be some road grading and shoulder work done. He noted the wider entrance at the solid waste facility, and indicated the gate is 23 feet wide.

**Police** – Jason Lamontagne explained Chief Shawn Bernier was out on an emergency call. He reported new hire Chris Chesley graduated the Police Academy as one of the top members of his class, and that the department was happy he was on board. Officer Chesley will be working solo without mentor in February or March. Sgt. Lamontagne said Officer Karl Koch was continuing his K-9 training with JJ. He told the Board the department was able to cover more remote locations now that there is less traffic.

Reporting on the Emergency Management meeting of the Northern Strafford County Regional Team, he said a bay station, digital radio and antenna will be received for a new emergency operations center (EOC). He said the fire station no longer meets the qualifications of being secured and alarmed for an EOC. He indicated the department is applying for a 50 per cent matching grant for creating an EOC, which could be located in the squad area or upstairs over the secured garage, following renovation.

Chair Gehl asked if Sgt. Lamontagne would assume the position of New Durham's representative to the Northern Strafford County Health and Safety Council, as he was unable to make the meetings. Sgt. Lamontagne said he had already taken on that responsibility. He informed the Board that under a new state law to receive grants, an emergency management team must be comprised of more than 10 communities, and NSCRT has only six.

The Board agreed to consider Sgt. Lamontagne as the representative and take his appointment under consideration until the next meeting, when a vote will occur.

## **5. Administrative Review**

TA Whittaker advised that the road bond for Chamberlin Way development has been officially released. RA Fuller indicated he would be able to pave a one-inch topcoat for a little in excess of the \$41,700 originally quoted in 2004, but would prefer having one and a half inch, at market cost of approximately \$60,000. The Town has agreed to pick up 50 per cent of the price differential, as has developer Steven Edwards. TA Whittaker recommended that in future agreements, stipulated amounts not be entered; rather, the phrase "per current market prices." She said the paving will be done without waiting for the two remaining lots to sell.

Selectman David Bickford suggested determining the amount of time to wait before paving such developments. RA Fuller said lots sell at different times, depending on the current market, but the main thing was to hold enough of a bond for negotiating purposes. TA Whittaker mentioned, in her experience, that a clause of four years had been recommended to renew an agreement.

## **6. Schedule Next Meeting**

The Board scheduled its next meeting for December 3, 2007 at 7:00 p.m. at Town Hall.

## **7. Old Business**

**Appointment Consideration, 1772 Meetinghouse Restoration Committee** – Skip Fadden stated he has been actively assisting the Committee with grounds keeping and producing special effects for productions there. Selectman Bickford said he'd asked Mr. Fadden to come prepared with examples of his expertise, citing the Committee's charge. Mr. Fadden said he was dedicated to the position, and asked what expertise did he need for grounds keeping. He went on to say he was currently working on a post and beam restoration. Chair Gehl, referring to the charge, said Mr. Fadden was involved in planning and communication, videography, photography, and was a part of event organization. Cathy Allyn stated Mr. Fadden was the Meetinghouse's resident technical person. Selectman Rhoades deemed Mr. Fadden qualified, since he could work under Ms. Allyn, whom he described as a taskmaster. Selectman Bickford said this was the only committee that requires some expertise, and asked if the charge should be less restrictive. Mr. Fadden said the type of person who came forward to serve on the Committee could be compared to the selectmen. Chair Gehl stated the cumulative talents of the individuals involved meet the goal of the Committee's charge. Selectman Rhoades said Mr. Fadden's enthusiasm was the most important component, and that he felt sure Mr. Fadden would research anything he needed to know.

**Motion to appoint Skip Fadden to the 1772 Meetinghouse Restoration Committee; second by Selectman Rhoades. The motion carried unanimously.**

Chair Gehl swore in Mr. Fadden.

**Investment Policy** – The Board received the definition of “delivery vs. payment” procedure in section 6 from a banking dictionary, which stated “*securities industry term indicates payment is due when the buyer has securities in hand or a book entry receipt. It is called delivery against cash, cash on delivery from the sell side, receive versus payment. Commonly used by institutional accounts, payment can be made to the seller or a bank acting as the seller's agent, by check, wire transfer or cash.*” But further information regarding the amount of collected funds on deposit in any one bank shall not for more than 20 days exceed the sum of its paid-up capital and surplus was being pursued by the town's bank.

**Motion by Selectman Bickford to continue the public hearing on the Investment Policy to the next meeting; second by Selectman Rhoades. The motion carried unanimously.**

**Relocation of utility pole on Bennett Road** – Selectman Rhoades stepped down for the deliberations, and vote. Chair Gehl noted the Board could require the pole to be moved. Selectman Bickford said it appeared it should be. He said NHEC got 24 years use out of it. Chair Gehl agreed that it would probably have to be replaced in 10 years anyway. Selectman Bickford said he was supportive of making Bennett Road safer.

Mr. Rhoades said he asked another utility company in the state about a Town asking for something on Town property to be moved, and the representative was surprised relocation did not occur without a discussion. He indicated the process should be a non-issue. Mr. Rhoades said he also spoke with Clint Hutchins of NHEC regarding the stake installed, which the Board had been told was a GPS stake. Mr. Hutchins indicated the stake was the location of possible pole relocation and had nothing to do with GPS. Selectman Bickford said measurements should be on the record to explain why this pole was moved, to clarify to residents who might ask for pole relocation.

**Motion by Selectman Bickford to require New Hampshire Electric Cooperative to move that particular pole on Bennett Road to a safer location, closer to the boundary; second by Chair Gehl. The motion carried unanimously by a 2 – 0 vote.**

Mr. Rhoades rejoined the Board.

### **8. New Business**

***Budget Work Session:*** The Board scheduled a budget workshop for 1:00 p.m. on December 10, 2007.

***Removal of Planning Board Members:*** Selectman Rhoades, as representative to the Planning Board, stated there were several members of that body who have exceeded the number of unexcused absences. He said a letter with a reply postcard was sent out, asking if the person had interest in serving. He said there was no response from Duane Armstrong, who was appointed to fill a vacancy two months ago, Christopher Lapierre, and George Gale. He cited RSA 673:13 that allows for removal of members and/or alternates due to inefficiency and neglect of duty. He asked for a public hearing on the matter, per the RSA.

Chair Gehl reviewed the statute and said it indicated the Board of Selectmen may remove, but the appointing authority, which would be the Planning Board, must file the reasons for removal with the Town Clerk. TA Whittaker said the statute implied to her that the Planning Board must provide the selectmen with a platform for the public hearing. Chair Gehl wanted to be sure on how to proceed properly and requested legal input.

Selectman Rhoades said the situation was causing a lethargic Planning Board. He said the board needed enthusiasm, with so much going on in town, and that he was frustrated because there was not enough of a team to move forward. TA Whittaker is to check with Town Counsel and attempt to schedule the public hearing for the next meeting.

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

**Motion by Selectman Bickford to approve the budget work session minutes of November 5, 2007 as amended; second by Selectman Rhoades. The motion carried unanimously**

**Motion by Chair Gehl to approve the minutes of November 5, 2007 as amended; second by Selectman Rhoades. The motion carried unanimously.**

## **10. Any Other Business**

The Board signed the itemization of the longevity pay policy.

## **11. Non-public session**

**Motion by Chair Gehl at 9:25 p.m. to enter into non-public session under RSA 91-A:3 II (c); second by Selectman Bickford. A roll call was taken: Gehl – aye, Rhoades – aye, Bickford – aye. Vote unanimous to enter into Non Public Session.**

The Board met with TA Whittaker and Town Clerk Carole Ingham regarding impending tax deeding on four (4) properties, and met later with TA Whittaker regarding legal matters pertaining to two junkyards.

Following extensive discussions on the four properties that were due for tax deeding, the board agreed to a payment plan for one provided the payments were consistently paid, and deadline stipulations with the other three in order to provide more time for the tax collector to try to locate two of the property owners. The third property owner in question was local and Mrs. Whittaker would make arrangement to meet with the family to seek a payment plan.

Mrs. Ingham left the meeting at 10:45 PM; Mrs. Whittaker discussed two junkyard violations and requested that Superior Court action be sought in one case subject to failure to clean the property within 30 days, and that an Administrative Warrant Order be sought in the other case for a final inspection.

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

The board returned to regular session at 10:59 PM; **motion Rhoades, second Bickford to seal the non public minutes of this session for three months pending resolution of the payment plans to forestall deeding, and junkyard clean up, vote 3 – 0.**

## **12. Adjournment**

Motion Rhoades, second Bickford, to adjourn, vote 3 – 0. The Meeting adjourned at 11:02 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.

