

New Durham Board of Selectmen
Minutes of Meeting ~ May 19, 2008
Town Hall

Members present: Peter Rhoades, Ronald Gehl, David Bickford

Also present: Town Administrator April Whittaker, Road Agent Mark Fuller, Financial Assistant Vickie Blackden, Assessor Robert Estey, Gigi Giambanco, Terry Jarvis, Elizabeth Kuzia, Stan Kuzia, Lionel MacEachern, Cathy Orlowicz

1. Call to Order – Chairperson Peter Rhoades called the meeting to order at 7:03 p.m. and led the Pledge of Allegiance.

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

3. Departmental Reports

Highway – Road Agent Mark Fuller requested a non-public session at the end of the meeting regarding paving bids. He said his department, along with the police department, attended a defensive driving course that included skid control, and appropriate use of brakes. He reported general road maintenance. In response to Selectman David Bickford's question, he said that the price of calcium chloride has gone up from 84 cents a gallon to 94 cents. He said he generally applied .3 gallons per square yard on unpaved roads

Emergency Management – Chair Rhoades advised receipt of a resignation letter from Sgt. Jason Lamontagne effective May 5, 2008 as emergency management director. Selectman Bickford suggested meeting with him to see if he had recommendations for a replacement, and to determine what materials needed to be returned. Chair Rhoades asked that Sgt. Lamontagne meet with the Board at its next meeting.

Motion by Selectman Ron Gehl to table the acceptance of Jason Lamontagne's letter of resignation as Emergency Management Director; second by Selectman Bickford. The motion carried unanimously.

4. Administrative Review

Motion by Selectman Gehl to appoint Police Chief Shawn Bernier as signatory of the OHRV grant ending June 30, 2009; second by Selectman Rhoades. The motion carried unanimously. Town Administrator April Whittaker said the grant usually amounted to approximately \$6,000 in state money.

Motion by Selectman Gehl to appoint Brett Murray, Toby Perry, and Andrew Hall as part-time police officers for terms to expire March 2009; second by Chair Rhoades. The motion carried unanimously.

The Board signed a second set of appointment papers to appoint Dave Russell, Don Holm, Tom Goss, and Chet Kania to one-year terms on the Milfoil and Invasive Aquatic Weeds Committee.

5. Appointment Meetings

Certification 2010 and revaluation – Assessment Bureau Representative Lionel MacEachern, Assessor Bob Estey and Assessing Assistant, Vickie Blackden met with the Board regarding revaluation. TA Whittaker summarized that the new assessment certification process requires the level of assessment be between 90 and 100% and a COD (Coefficient of dispersion) of 20.0% or lower in the year of the Assessment Review. She said the Town's revaluation was scheduled for 2010 per the five-year cyclical certification.

Mr. MacEachern said state law and constitution requires revaluation at least once every five years. As part of the assessment revaluation process, the DRA reviews all exemptions and credits, ensures that applicable records are available to the public, looks at current use, current use records for accuracy, and ensures appraisal contracts are sent to the DRA for review prior to any work being done. He suggested sending letters out now to applicants of exemptions and credits.

TA Whittaker agreed with Mr. MacEachern's discussion classifying it as on-going administration for the office, but asked about the steps to getting to market values, or ensuring that the neighborhoods are equitable compared to the sales data. Mr. MacEachern reiterated the ratio of between 90 and 110 per cent, and a COD of 20% or less. He said the price related differential goes to the Assessing Board, and that the improved residential and unimproved residential data needs to be within five per cent of the overall median to pass criteria.

Selectman Gehl asked about the extent of revaluation, as the Town was trying to define a scope of work. Mr. MacEachern said it depends on the situation at the time. He explained that building values must be in line, that sales needed to be analyzed, and the market tested.

Assessor Robert Estey said he had recommended the Town set aside money for a total remeasure and relist every 10 years, and have an update of the values every five years. He said the current issue was whether the Town can do just a sales analysis and update function, or if it needs to do a complete revaluation (remeasure and relist). He wondered if the DRA could tell the Town what was needed before the Town contracted a company. He said he didn't think there was dramatic enough change over five years to warrant a full remeasure and relist. He advised that about 60 per cent of the cost of a full revaluation was data collection, and that the Town would want to avoid that to keep costs down. He explained that the DRA does a random sample of data, and if it were okay, then that element would pass. Chair Rhoades asked if the Town was therefore asking the DRA to do the random audit prior to hiring a company to do the work. Mr. Estey replied that it would be nice to know if the data would fail.

Mr. MacEachern said he did not have the authority to answer that question at this time, but advised that an official letter from the Board back to the Director

would be his preferred course of action. Chair Rhoades said the Town would want to move forward with what amounts to a pre-test. Mr. Estey said the Town needed to know what work would have to be done before going to bid. He said that the fact that the data passed previously does not ensure that it will pass this time; it only indicates that the sample used previously passed. TA Whittaker said the Town staff maintains good data. Mr. Estey said the Town was 95.6% on the median ratio and could be close to 100 next year, although the revaluation is not due until 2010. He said equity issues from neighborhood to neighborhood could arise, and that the update of values is done by neighborhood. He said the Town needed to know what scope of work would be necessary in 2010 so that the money will be there to pay for it. He recommended just an update of value, but asked if the DRA could give the Town an idea if it would need a full remeasure and relist.

Selectman Gehl asked if other communities had similar questions. Mr. MacEachern agreed that most towns don't want to spend money if they don't have to. He said most have chosen a cyclical revaluation, generally doing 20 per cent of the town each year. Selectman Gehl said standards have been upped recently and it costs more. Mr. MacEachern said since assessing practices were different in different towns, the law was changed so each town has a revaluation every five years. He said an additional cost to contractors was a report that is now required.

Selectman Gehl asked if cyclical valuation could be done in-house. Mr. MacEachern said the Town would have to hire a data collector and a CNHA person to oversee the process. Mr. Estey said many companies have a canned report and they fill in the holes. He said that report was expensive. He added that New Hampshire is now the strictest state in the nation regarding assessing.

TA Whittaker asked if the standard DRA revaluation bid documents were available on-line, and Mr. MacEachern told her yes, and that he would get them to her if she had difficulty. Selectman Gehl said the Board has been building a capital reserve fund, but does not know how much to anticipate for costs. Mr. MacEachern said he would check with Interim Director Mike Williams to determine if a sample of the data could be taken prior to work done. Mr. Estey said if the data is collected properly, there should not be significant change over five years. He suggested hiring a data collector over those five years to maintain accurate data, so a remeasure and relist would not be necessary. He said a sales analysis would have to be done. Mr. MacEachern said the person would have to be certified by the DRA.

TA Whittaker advised that some towns have banded together and share an assessor and data collector. She said assessing is now more onerous on small communities, and that it is difficult to find qualified individuals to do the work. Mr. MacEachern said overall everybody is better off now. TA Whittaker said the Town has been putting away \$20,000 a year and has about \$124,000 in the bank now. She said if it went to cyclical revaluation, more would be needed at first; and that more than \$20,000 may be needed to be saved each year. Mr.

MacEachern said he would investigate the approximate cost of New Durham's revaluation of 2500 parcels.

McKay Sandpit Road – Stan Kuzia met with the Board, explaining that the McKay Sandpit Road, which provides emergency access to residents of Pine Point Road, will be closed to those without a deeded right of way unless Pine Point residents make a good faith commitment to Charles McKay to participate in the cost of construction of a new road by June 1, 2008. Mr. Kuzia presented the Board with four questions, concerning requirements for placing an article on the warrant in light of the withdrawal Article 21 from the 2008 warrant, considering the road as Class VI, and Town Counsel's opinion on the McKay quitclaim deed. Mr. Kuzia asked if it would be possible for the Pine Point residents to pay the Town for the use of the gated road if the Town would take over ownership of it. Selectman Bickford raised the idea of a homeowners' association as previously discussed last year.

Mr. Kuzia asked if it would be legal for the road to be a Class VI road. Chair Rhoades said his research into the issue revealed it is not possible to create a Class VI road; by its definition it is a neglected Class V road. Selectman Bickford said he found the same information when he researched the matter last year. Chair Rhoades said that, if legally a Class VI road is a Class V road that has not been maintained, then making the Sandpit Road a Class VI would be beyond the Board's ability, and issues beyond that would be moot. He said the Board would get a clarification from Town Counsel. He told Mr. Kuzia that if the cost of a proposed new road were to be borne by a homeowners' association, the application would go to the Planning Board just as a subdivision's would. He said the Board would have Town Counsel's answer at the next meeting, and if Mr. Kuzia disagreed with the opinion, he has the right to contact a land attorney. Selectman Gehl said it had been suggested that warrant article 21 was forced to be withdrawn, but that in final review of the warrant by Town Counsel, there was a comment to the effect that it is not possible to create a new Class VI road from a private road. He reiterated again that there was no forced withdrawal of the petitioned warrant article.

6. Schedule Next Meeting

The Board scheduled its next meeting for June 2, 2008 at 7:00 p.m. at Town Hall.

7. Return to Administrative Review

TA Whittaker reported three applications on the website's Talent Bank: Terry Jarvis for the Ethics Committee and CIP Committee, and Kristyn Bernier and Katie Woods, both for the Ethics Committee. Chair Rhoades said Dwight Jones had spoken to him about serving on the Ethics Committee. TA Whittaker asked Mrs. Jarvis if she would help the Capital Improvement program committee by being the at-large member. She said department heads report their information in May and the CIP starts in June, meeting every other week.

Motion by Selectman Bickford to appoint Terry Jarvis to the CIP Committee as its at-large member; second by Selectman Gehl. The motion carried unanimously.

8. Non-public Session

Motion by Chair Rhoades at 8:31 p.m. to enter into non-public session pursuant to RSA 91-A: 3 II (b) and (c); second by Selectman Gehl. A roll call was taken. Rhoades – aye, Gehl – aye, Bickford – aye. The Board met with a private citizen regarding a hiring issue, which affected the reputation of the individual.

The Board returned to public session at 9:12 p.m.

9. Return to Administrative Review

Class VI Road Guidelines review – Chair Rhoades asked the Board to return with suggestions for forming a policy on construction on Class VI roads. Ms. Jarvis spoke of her experience on the ZBA with a particular case on the class VI portion of Birch Hill Road.. She said the fact that having guidelines, rather than a policy, made it unenforceable and loose. She said the guidelines were written in vague terms and subject to different interpretations, which made the administrative appeal process difficult. TA Whittaker pointed out it was a past Board that drew up the Class VI guidelines. Selectman Gehl said originally there was a “policy” on Class VI roads, but one Board changed it to “guidelines” to make it less enforceable. He said the Board talked about returning it to a policy when the Birch Hill case came up. TA Whittaker pointed out that the former policy is held up as a model for other towns. Chair Rhoades asked TA Whittaker to request input from the police, fire, and highway departments, and noted Ms. Jarvis’ recommendations.

War Memorial – Chair Rhoades said there was a time period open for including names on the memorial, and he could not think of an easy way to open the door to add names on an ongoing basis. TA Whittaker said it would cost \$250 to advertise an open period. She added she has spoken with the resident. Chair Rhoades said adding a few people as they come forward regrettably would not work. Cathy Orłowicz said there will probably be a future memorial, as there will be veterans from more recent conflicts, and there would be space on that. The Board agreed that no forward action could be taken now, but the matter will be kept under consideration.

Part-time BI resignation – **Motion by Chair Rhoades to accept the resignation of Dan Nebesky as part-time Building Inspector with regret; second by Selectman Gehl. The motion carried unanimously.**

TA Whittaker provided the advertisement posted and job description for a part-time Code Enforcement/Building Inspector; noting the closing date of June 11, 2008.

Middleton tax abatement – Selectman Gehl said the tax abatement on the Middleton gravel pit has been of mutual benefit, and RA Fuller recommended granting it as the Town trucks can load at the Middleton Public Works building for sand and salt, rather than returning all the way to New Durham.

Motion by Selectman Gehl to grant the abatement request from the Town of Middleton for Map 20, parcel 3A for taxes on the gravel pit; second by Chair Rhoades. Amendment by Selectman Gehl to designate the abatement for the full 2008-tax year; second by Chair Rhoades. The motion carried unanimously.

Junky yard ordinance implementation request – TA Whittaker said of two residents with junky yards, one has cleaned up, but when speaking with the other it became apparent that the Town and the resident have differing opinions as to what constitutes “clearance.” She said the resident has a strong opinion of his Constitutional right and she respects that. She added that particular yard has been a longstanding problem in town. She said a court of law would be the next step, either district or superior court. Chair Rhoades asked that Town Counsel recommend one of those two options, and advise how long the process may take. Selectman Gehl said he was in favor of proceeding with enforcement of any kind, but noted to all that it takes a long time to get to resolution. Selectman Bickford said it was difficult to get a court to take action when someone has taken one step.

TA Whittaker said another complaint would be discussed in non-public session as there were financial difficulties.

Signs on utility poles – TA Whittaker provided photos of firewood signs/construction-type on utility poles. Selectman Bickford said posting signs on utility poles is illegal. He explained that political signs are governed under different laws than commercial signs, and people are generally unaware of that. TA Whittaker said she would alert the utility companies. RA Fuller asked about memorials on the side of the road. He said the state pulls signs there, but not the memorials. TA Whittaker asked that that question be considered later, and requested that at this time, staff concentrate on the proliferation of illegal signage.

10. New Business

March's Pond Dam financing – TA Whittaker provided quotes from the New Hampshire Municipal bond bank and two banks.

- ❑ The bond bank exacts no payment until 2009, but cannot guarantee an interest percentage until the bond is floated, and also charges an administrative cost of \$7,500. It guaranteed a maximum of 5.25 per cent noting that the actual percentage rate could be much lower, however, at a total cost of \$916,250. TA Whittaker and Selectman Bickford suspected the rate would be lower.
- ❑ TD BankNorth quoted 5.25 per cent for a 15-year bond and 4.5 per cent on a 10 year bond.
- ❑ Citizens Bank quoted 4.35 per cent on a 10-year bond, note being made that they would not quote beyond 10 years.

Selectman Bickford said there were more options with a shorter term bond and liked that less interest would therefore, be payable. TA Whittaker said a longer term spreads the burden over more people and is less consumptive on the town

budget annually. Selectman Bickford pointed out that it would also leave some money in the taxpayers' pockets that could be invested. TA Whittaker said the rate from the bond bank would be known July 17, 2008. Following further discussion,

Motion by Selectman Gehl to authorize the Town of New Durham acting through the Board of Selectmen to enter into a loan agreement with the New Hampshire Municipal Bond Bank and to sell said bond to the New Hampshire Municipal Bond Bank for a period of fifteen years; second by Selectman Bickford. The motion carried unanimously.

Motion by Selectman Gehl to authorize the chairperson as signatory on the loan agreement with the New Hampshire Municipal Bond Bank; second by Selectman Bickford. The motion carried unanimously.

Chair Rhoades, as duly appointed signatory, signed the loan agreement.

TA Whittaker read the certificate of vote regarding authorization of bonds and approval of loan agreement with the NH Municipal Bond Bank to be signed by the Town Clerk. Among items noted in the certificate of vote were:

- no vacancies on the Board and all were present for the meeting;
- the Board is authorized for the issuance of a \$620,000 bond to finance the reconstruction of March's Pond Dam under Article 3 of the 2008 warrant adopted March 12, 2008;
- the bond shall bear a net interest cost rate of 5.25 per cent or lesser amount;
- the bond shall be sold at the par value thereof to the Bond Bank;
- the Town Treasurer and Board member are authorized to execute, attest and deliver an approved Loan Agreement;
- the Town Clerk and signers of the bond are authorized to take all action necessary to carry out the provisions of the vote;
- the useful life of the project being financed is in excess of 20 years;
- the meeting was open to the public;
- the vote was not taken by secret ballot nor in executive session;
- the minutes of the meeting will be made open to inspection within 144 hours of said meeting, and that the vote has not been amended or rescinded, and remains in full effect.

Selectman Gehl said the Board looked forward to the successful completion of the project.

Hazard Mitigation Plan update – TA Whittaker told the Board Cynthia Copeland, Executive Director, and Julia Chase, Field Representative of Strafford Regional Planning Commission wished to discuss an update for the Town's Hazard Mitigation Plan. The Bureau of Emergency Management is contracting the regional planning commissions for these updates. The federal funding source is a 50/50 match. Ms. Jarvis said the department heads and several residents were involved with creating the plan. Selectman Gehl said in-kind service could

generally be used for the Town's match. Ms. Jarvis said an approved plan is necessary to secure many grants.

March's Pond Dam update – TA Whittaker provided the Board with a letter from William Straub of CMA Engineers. He indicated DBU is ready to sign the contract. The contract included an umbrella insurance amount of one million dollars. The letter explains that the contractor's insurance company will not issue umbrella insurance due to the dam's classification as high hazard. According to Mr. Straub, the insurance coverage is adequate without the umbrella insurance. Selectman Gehl agreed that the performance bond would cover if the dam failed during construction or within one year of completion. He noted wryly that the three feet of water behind the dam is classified as high hazard and some work insurers won't touch that, but that regular property liability insurance is in place. Chair Rhoades said the umbrella insurance would cover a broader range, but there is a miniscule chance of anything happening.

Motion by Chair Rhoades to waive the standard default of umbrella insurance in the contract with DBU; second by Selectman Gehl. The motion carried unanimously.

TA Whittaker said she would put the projected start date of mid to late June on the website.

Copple Crown building permit – TA Whittaker said the Lakes Region Conservation Trust granted Steven Smith a proper easement as a right of way over Newport Drive for the property in question. She received notification of this by fax and said she would like a copy of the duly legally executed and recorded easement deed. The Board agreed, and also requested the minutes of the LRCT's meeting. TA Whittaker said the Board also wanted acknowledgment in writing from the Brookfield Board of Selectmen.

11. Old Business

TA Whittaker said she has had three requests to date for bid documents on the fire station addition. Names of the recipients are being collated and will be provided as part of the bid opening scheduled for 12 Noon on May 28th, 2008.

Selectman Bickford said he would like to revisit the question of the dump entrance at some point to see if Mr. Hardy's concerns should be acted upon.

12. Approval of Minutes

Motion by Chair Rhoades to approve the minutes of May 5, 2008 as amended; second by Selectman Gehl. The motion carried unanimously.

Discussion of approval of the non-public minutes of May 5, 2008 to be discussed in non-public session as there are suggested amendments, along with two other matters.

13. Non-public Session

Motion by Chair Rhoades at 10:24 p.m. to enter into non-public session pursuant to RSA 91-A:3 II (b) and (c); second by Selectman Gehl. A roll call was taken. Rhoades – aye, Gehl – aye, Bickford – aye.

The board met with Mark Fuller regarding the paving bids, and April Whittaker regarding dilapidated buildings due to fire damage.

The Board returned to regular session at 11:10 PM and took the following actions:

Motion Gehl, second Bickford to approve the Non Public Minutes of May 5th, 2008 as amended, vote 3 – 0.

Motion Gehl, second Bickford to seal the Non Public Minutes of May 5th, 2008 in perpetuity, vote 3 – 0.

Motion Rhoades, second Gehl, to award Pike Industries the town's 2008 paving bid for \$204,049 which was the second lowest bid based on established performance criteria and pricing, vote 3-0.

14. Adjournment

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

The meeting ended at 11:20 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.