

**New Durham Board of Selectmen
Minutes of Meeting ~ October 20, 2008
New Durham Town Hall**

Members present: Peter Rhoades, Ronald Gehl, David Bickford

Also present: Town Administrator April Whittaker, Police Chief Shawn Bernier, Road Agent Mark Fuller, BI/CEO Arthur Capello, Planning Board Chairperson Robert Craycraft, Winnie Berry, Terry Jarvis, Dorothy Martin Veisel, Fred Quimby, Katie Tothill, Baysider Reporter.

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

2. Public Input – *Milfoil Committee Update* - Representing the Milfoil Committee, Fred Quimby gave an update of that group’s activities for the year. He said all bodies of water in town have now been surveyed, and most are clear of exotic milfoil. An extended area of infestation occurs, however, in the Merrymeeting River from where Merrymeeting Road crosses the river down to Downings’ Pond Dam. The committee has filed a grant application with the state to conduct work on its removal in 2009. Following chemical treatment, those plants left must be hand pulled by trained scuba divers. Mr. Quimby described the process as removing the roots under the bulbs, so that the plants will not return. He said two certified divers were trained to do the removal on Jones’ Pond.

Prior to the chemical treatment of Jones’ Pond in 2008, a citizen raised concerns about possible transfer of the chemical 2-4D from the treated water to abutting wells, as well as the chemical’s toxicity. Mr. Quimby said public safety comes first to the committee, so the state was brought in to answer concerns before any treatment was done. The state has done exhaustive research and concluded there is no possibility of the chemical migrating from the treatment area and getting into wells. The concerned citizen was reassured and the treatment took place on September 22, 2008, and was reviewed on October 8, 2008.

Mr. Quimby reported that the committee applied for a state grant on September 15, 2008 for work to be done in 2009. He indicated the state is short of funds. The committee plans to start at the bridge and clear everything out. In 2010, the state will help toward that clearing. He cited an \$18,000 matching funds grant, and said the committee would ask the Town for \$10,000; \$9,000 of which, to be used for the treatment, and \$1,000 to train two other divers. Chair Rhoades stated it was good use of money. Mr. Quimby said the state’s strategy is to begin at the headwaters and clear down. He told the Board that native milfoil is in the area from the bridge to the Fish Hatchery. He said there would be a four to five week draw down in November, during which time the state will do a complete analysis. It is hoped the roots will freeze.

Terry Jarvis asked when the abutters could drink the water. Mr. Quimby said a maximum of five days before being able to drink the water after aquatic treatment. He said she should have been notified, and that he would check into it.

Tree removal - Chair Rhoades spoke as a resident and asked about the process of removing trees in the Town’s right-of-way. He said there were two oaks and four pines in front of his house that

he wished to cut down to facilitate TV satellite installation. Selectman Ron Gehl said the Board generally consults with the road agent on such requests. He said he had no issues with the request if the road agent was comfortable about it. Selectman David Bickford said he didn't believe trees should be in the right-of-way. The board subjected their approval to the approval of the Road Agent.

3. Department Reports

Police – Emergency 9-1-1-

Police Chief Shawn Bernier said he met with the Emergency 9-1-1 representative last Wednesday, and several issues in Copple Crown were fixed. He provided the Board with a list of 15 road names with some recommendations as to proposed changes. Some changes were as minor as spellings. Chair Rhoades indicated there were few serious changes. He suggested checking with affected residents before signing up for the system. Chief Bernier said there have been several mix-ups over road names that affected the police and the fire departments. He said the switches may be a tough sell, but doing so would reduce liability. Town Administrator (TA) April Whittaker added that the Town would also receive a GPS map system. Chief Bernier pointed out that the map system would be updated yearly. He said the Town's current locator is out of date. TA Whittaker said affected residents would have to change their addresses on their checks, etc. The Board reviewed Section 231:133 and 231:133-a of Chapter 231 under Transportation regarding street names and markers.

Selectman Gehl said the new road names should be available for the public hearing. TA Whittaker said she would notify abutters to come in with suggestions. Chair Rhoades suggested having two hearings, and if people could not attend the first to submit their suggestions, they could mail them in. He said the name changes are for safety reasons. Dorothy Veisel suggested providing residents with a checklist of what companies, etc. need to be notified of their address change. Chair Rhoades agreed, commenting that the Post Office has a kit that covers that.

Motion by Chair Rhoades to proceed with the initial public hearing to move ahead with the Emergency 9-1-1 naming of road names and GPS mapping; second by Selectman Bickford. The motion carried unanimously.

Selectman Gehl said to expect the unexpected at the public hearing.

ACO/PO – Chief Bernier provided the paperwork for the new part-time police officer and Animal Control Officer (ACO). He said the person was currently the ACO in Farmington. He told the Board the Police Academy recommends that the ACO be sworn in as a police officer to then use a cruiser and complete the paperwork.

Motion by Selectman Gehl to appoint Megan Welch as part-time Animal Control Officer and part-time police officer; second by Chair Rhoades. Brief discussion ensued.

Motion by Chair Rhoades at 7:35 p.m. to enter non-public session to discuss the appointment of Megan Welch under the terms and conditions of RSA 91-A:3 II (c); second by Selectman Bickford. A roll call was taken. Rhoades – aye, Gehl – aye, Bickford – aye. The motion carried unanimously.

The Board returned to public session at 7:45 p.m.

Selectman Gehl stated the current ACO has time commitments in other areas. Selectman Bickford said he'd always felt police should do animal control. **The motion on the table carried unanimously.**

4. Public Appointment – New Durham Food Pantry

The Board met with Ms. Jarvis of the Food Pantry. Ms. Jarvis said the Food Pantry has outgrown its present home and has permission to use the church across the street. She advised that it had been suggested that the Town Hall would be a suitable site as it was in the past. However, the Directors felt there was not sufficient space, and that taking over needed office space was not an acceptable situation. TA Whittaker said there was space in Town Hall for the Food Pantry, but storage would be on a different level. Ms. Jarvis said the supplies would take up the Planning Board room. Chair Rhoades clarified that Town Hall has been offered to the Food Pantry, that the Pantry did work out of Town Hall previously, and that it was an option for them to consider. Ms. Jarvis said there has been a sharp increase in clients, and she did not want to infringe on Town Hall workers.

She said the Planning Board brought up parking issues in conjunction with use of the church. She explained that two Saturdays every year the group may need more than the nine parking spaces at the church, so she was requesting parking at Town Hall when it was closed for any overflow. She said she had also spoken to Library Trustee Tom Swett and Library Director Max Crowe about using the library parking lot and that her request would be brought up at the next Trustee's meeting in November.

Ms. Jarvis said she had also spoken to Building Inspector/Code Enforcement Officer (BI/CEO) Arthur Capello, who indicated there would be inspection fees involved with using the church. She said the amount, around \$75, translated to feeding a family of three for three weeks, and for that reason, the group's second request was to waive the permit fees. Chair Rhoades pointed out that any changes made would be to a private structure, and if it were sold, a private party could make a profit and that was unfair.

Selectman Gehl asked what the set-up was with the church. Ms. Jarvis replied that the church is owned by Birch Hill Summer Camps and the Food Pantry can use it rent-free for a year. She said the church has no water and only a chemical toilet. She said a plumber has volunteered to hook-up a toilet, and minor electrical work must be done. If the building were sold, the Food Pantry would be reimbursed for all supplies it provided. She said the part of the building used to store canned goods must be maintained at 45 degrees. Chair Rhoades asked if it would not be a benefit to use Town Hall i.e. free electricity, and Ms. Jarvis said it would, but that the number of clients is increasing. She stated 38 families use the service, and said the pantry is open three times a week. Chair Rhoades asked how the group knew whom to help. Ms. Jarvis said there are referrals from the school and Welfare department, sometimes they are made aware of people in need, and there are also certain forms clients fill out.

Selectman Bickford asked about the fees for certain work if the Planning Board grants the site permit. BI/CEO Capello said there would be inspection fees for plumbing, electrical, rough frame, and overall for a total of \$100, plus an application fee of \$10. Chair Rhoades said a letter had gone out from the Food Pantry indicating it was moving into the church. He said that was not the correct procedure, as the group would have to go through the ZBA and Planning Board.

He cited minutes from two years ago concerning using the church as a community center when Ms. Jarvis stated parking at the site was not a good idea. Chair Rhoades said he thought the Food

Pantry coming to the Board was putting the cart before the horse, as it would need approvals in place from the ZBA.

Ms. Jarvis responded that the letter stated the Pantry was in the process of relocating, not that it was moving into the church. Regarding the parking situation, she said her previous concerns were in the event of 50 people parking at a community center. The Pantry would involve only a maximum of 15. She said she'd inquired if the variances granted the community center could be transferred, and that matter was to be discussed by the ZBA.

Ms. Veisel said the group was told at the Planning Board meeting to come before the selectmen. She asked the Board to tell them the route it would like the Pantry to go through. Chair Rhoades said the Pantry was asking about parking for a facility that has not yet been approved. Selectman Bickford said it was his insistence at the Planning Board meeting that the Pantry come before the selectmen regarding overflow parking, and the Planning Board had been in agreement about that. Selectman Gehl said the Board did not know what the final form might take because of the ZBA and Planning Board. He said the selectmen could make an advisory opinion and work out the details of overflow parking later. Ms. Jarvis said overflow parking would only be needed the week or two before Christmas when people drop off gifts and volunteers wrap them. Selectman Gehl clarified that the need for overflow parking would be seasonal, and not on a regular basis. Chair Rhoades pointed out that the site would have to be approved as a site plan for the food pantry, not a community center.

Chief Bernier said he'd spoken with Ms. Jarvis and her parking plan should work if vehicles are parked off the asphalt and the handicapped space was in front. BI/CEO Capello asked if there was a parking lot there. Chair Rhoades answered no, and that the previous approval called for paving. Selectman Bickford said the ordinance regarding parking along the road should be looked at and terminology clarified. Chief Bernier said the courts uphold parking off the paved portion of the roadway. Ms. Jarvis said the Pantry would need to know what the road agent wanted. Road Agent (RA) Fuller indicated parking in front would be fine.

Chair Rhoades suggested the Board was willing to consider parking at Town Hall during times when Town Hall is closed. Selectman Bickford said parking areas at the church could be helpful, and that the Library might be able to use it. Chair Rhoades said the Board must be careful in its need to help the Food Pantry that it would not be causing a problem in 10 years. He advised that variances would be needed. Selectman Bickford said he was fearful of setting a precedent and therefore was against waiving fees. Selectman Gehl agreed about setting a precedent and waiving fees, as the improvements would increase the value of a private property.

Motion by Selectman Gehl to not grant the request for a waiver of building related inspection fees for potential use of the church as the Food Pantry; second by Chair Rhoades. The motion carried unanimously.

Chair Rhoades told Ms. Jarvis that the Pantry could use Town Hall if things did not work out for use of the church. He said Town Hall worked before for the Pantry and that space could be cleared. He urged her to take advantage of the free heat, and added that it is easier for the Welfare department if the Food Pantry is at Town Hall. Ms. Veisel asked if there would be room for the "Wish Upon a Star" program. Chair Rhoades said presents could be stacked in the selectmen's room or conference room. Ms. Jarvis said last year there were 90 piles. TA Whittaker said more than that were handled in Hopkinton using a different system, which they may want to consider in the future. She said space upstairs could be freed up. Ms. Veisel asked if there was handicapped

access to the upstairs. TA Whittaker advised “no, it is not handicapped accessible” but that food could be brought downstairs to make the necessary accommodation.

5. Department Reports continued

Highway - RA Fuller said all sand is in. He discussed with the Board the problem of abuse of the free sand pile. Chair Rhoades said that sand should be used for sidewalks, not driveways. RA Fuller said residents often respond that they are taxpayers and should be allowed the sand. Selectman Gehl suggested putting the pile closer to the salt building so the highway crew could monitor and prevent pick-ups being filled with the sand. RA Fuller explained that he tries to keep people away from that area. Chair Rhoades asked why the sand was offered. RA Fuller said it was a courtesy. Chair Rhoades noted it was getting expensive and asked if it should be provided only to hardship cases. RA Fuller suggested advertising that pick-ups are not allowed. He said he did not mind residents taking one or two five-gallon pails of the sand. Chair Rhoades pointed out that the practice is being abused. Selectman Bickford said he understood that, but hated to give up the practice. He asked what the actual cost has been. RA Fuller said last year over 100 yards of sand went out. He said the sign stipulates no commercial use, and suggested placing obstacles in front of the pile so a pick-up can't get up to it. Selectman Gehl said he would like to find a way to make it work.

RA Fuller reported on other highway department vehicles.

Building – BI/CEO Capello said he walked the property on Old Bay Road and that the junk, debris and miscellaneous materials clean up will not happen overnight. He said he would set deadlines with the owners. Discussion then ensued on the burned property on Ten Rod Road and code matters.

Planning – Planning Board Chairperson Robert Craycraft said the Planning Board applied for a professional assistance grant for storm water management, which would include drafting regulatory amendments for drainage issues.

Budgetary Matters - Chances Program – Per Chief Bernier's request, TA Whittaker asked the Board if they wanted to disburse the \$1,800 allocated for the court-avoidance Chances Program, as the police department used it only twice this year. Selectman Gehl said Chief Bernier had spoken highly of the program in the past, and that with its use, the Town could avoid officer time in court. Chief Bernier said it was a good program but not a necessity. Selectman Gehl said he was unsure if he wanted to withhold the funds. Chief Bernier said the program could not refuse to service the Town's young people if the Town did not pay. BI/CEO Capello said he was a founding member of the Chances board, and noted that the program also does work in schools. Selectman Gehl said he was supportive of the program and hesitated to withdraw funding. TA Whittaker advised that the Budget Committee had asked for staff to look for places to balance the budget. Chair Rhoades suggested the program provide the Town with a breakdown to facilitate budgeting for next year. Chief Bernier said he would ask the program to respond with a letter.

6. Administrative Review

Warrant and Tax Rate – The Board signed the 2nd Billing Warrant. TA Whittaker said the tax rate was set on Thursday, with the combined rate being \$18.99, up 75 cents, or 4.1%. She explained if a person had a \$200,000 home, the taxes would be \$150 more than last year. She said the town portion was up 35 cents, or six per cent. The school portion increased by 1.1 per cent, the state education by 6.5 per cent, and the county portion by 7.7 per cent. Tax bills will be mailed out on Thursday or Friday.

Oil and Gas Bids – TA Whittaker reported that the bids for heating oil for the Town’s facilities, and diesel and gasoline for Town vehicles are due in November 3, 2008.

Statistical Update – TA Whittaker said the DRA would allow the Town to do a statistical update rather than a full revaluation for next year. A full re-measure and list will need to be conducted in 2014. TA Whittaker recommended Assessor Bob Estey meet with the Board.

TA Whittaker informed the Board that one bid for the heating system for the fire department addition has come in and a local plumber indicated he would quote a price. Selectman Gehl said Fire Chief Peter Varney has tried to get bids. She said the asphalt is higher than the step into the addition, and therefore, there should be some groundwork prior to frost. She noted the generator company has not yet responded. She told the Board Barry Cox, Personnel Consultant with the Local Government Center will present a draft Pay & Salary Comparison at the meeting of November 3, 2008.

The Board scheduled its next meeting for November 3, 2008 at 7:00 p.m. at Town Hall.

7. Old Business

Class VI Road Review – Selectman Bickford presented his view that there should be no building on Class VI roads unless one owner owns the entire area. If that is not the case, he said a Village District or homeowners’ association should be formed to be responsible for road maintenance. Selectman Gehl said language in the current policy caused a result where there could be more people on a road, with a higher standard of the road. Selectman Bickford also said driveway expectations should be the same as on Class V roads. His opinion could be summarized by saying there should be no building on a Class VI road unless the road is brought up to Class V standards and maintained by the Town. Chair Rhoades said he did not want to bring it up that far, if the 600-foot limit could curb the number of lots available. Selectman Bickford said the policy should not be used to limit building, as the scattered and premature development is the tool for that. Chair Rhoades said he liked the rural nature of Class VI roads. Selectman Bickford said his goal concerned responsibility of road maintenance.

TA Whittaker asked if it was the Town’s responsibility to force a Village District. Selectman Bickford said he did not think so. TA Whittaker pointed out that the Town cannot get involved with a homeowners’ association as this would be an independent legal entity. Selectman Bickford suggested everyone along the road would have to be in the Association to receive a building permit.

Selectman Gehl said he would like the policy to be used to discourage construction of private residences on Class VI roads. By allowing that development, people are being spread away from Town center and it also creates the possibility of a petition for Town maintenance. He said the onus needs to be on the planning aspect, and Class VI roads are in places the Master Plan says are not good places to build. Chair Rhoades asked if the Class VI roads had unacceptable slopes, and if having to bring them up to subdivision levels would prevent development. RA Fuller said it would not, as many of the roads have steep grades only a long distance in. Chair Rhoades said the consensus seems that the Board would prefer no building on Class VI roads. He said the original concept of the policy was that if someone was living on one, it was a driveway. Selectman Bickford said that would be acceptable if that were the end of it, but how would one say that is the end of it. He said conflict arises when there is more than one person involved.

TA Whittaker suggested pursuing the concept of Class A or B trail system. Selectman Gehl said if the status of Class VI road were removed, the road would be a Class A Trail that can be used for recreation but would be impossible to develop. TA Whittaker said the lots would then be like woodlots. It was agreed that RA Fuller, BI/CEO Capello, and TA Whittaker should supply a list of all Class VI roads with the number of residences on them, and those Class VI roads with no residences. TA Whittaker pointed out that converting roads to Class A trails requires a Town Meeting vote. She said the Town would not want to box anyone into converting a Class VI road into Class V, which would lead to development. She stated that anyone buying on a Class VI road must know there is no expectation of being able to build. Selectman Bickford said such persons did know they could come before the Town and ask. She said that the policy written by Tim Bates held up in court. Chair Rhoades said it was time for a change in the policy, rather than merely a change of words. He said it would make things easier for future selectmen. TA Whittaker said an update of the transportation section of the Master Plan would help, also. Selectman Bickford said he did not want unmaintained roads. Chair Rhoades clarified the goal of the policy to be limiting development on roads that remain Class VI. He said it was difficult to make several people on a road all pay to maintain it.

March's Pond Dam – TA Whittaker said everything is on schedule to bring in equipment and move soil the first week of November. The contract is to be signed Oct. 28, followed by pre-construction planning.

8. New Business

Budget Committee Meetings – TA Whittaker provided the Board with the Budget Committee's meeting schedule.

9. Approval of Minutes

TA Whittaker said she reviewed the DVD of the meeting of September 22, 2008 regarding the discussion of Pine Point Connector.

Motion by Chair Rhoades to approve the minutes of September 22, 2008 as amended, second by Selectman Gehl. The motion carried unanimously.

Motion by Chair Rhoades to approve the minutes of October 6, 2008 as amended and with the addition of the date BI/CEO Capello planned to walk a site with a DES representative; second by Selectman Bickford. The motion carried unanimously.

10. Any Other Business

Town Hall doors - Selectman Gehl said he needed more time to provide information on the Town Hall front doors.

Recreation Commission applicants – TA Whittaker said applications had been presented for the Recreation Commission vacancies, and she was waiting to hear from the Commission. Chair Rhoades asked her to send a memo to the Commission asking whom they recommended.

11. Non-public Session

Motion by Chair Rhoades at 10:06 p.m. to enter non-public session under RSA 91-A:3 II (c); second by Selectman Gehl. A roll call was taken. Rhoades – aye, Gehl – aye, Bickford – aye. The motion carried unanimously. The Board met with TA Whittaker and RA Fuller.

The board returned to regular session at 10:35 PM following discussion regarding damaged equipment.

12. Adjournment

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

The Meeting adjourned at 10:38 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.