

New Durham Board of Selectmen

Minutes of Meeting ~ April 20, 2009

Town Hall

Members present: Ronald Gehl, David Bickford, Theresa Jarvis

Also present: Town Administrator (TA) April Whittaker, Road Agent (RA) Mark Fuller, Police Chief Shawn Bernier, Building Inspector/Code Enforcement Officer (BI/CEO) Arthur Capello, Solid Waste Facility Foreman Joe Bloskey, Jaime Brulott, Skip Fadden, Ryan Heath, Cathy Orlowicz, Matt Rabideau, Peter Rhoades, Katie Tohill, Ryan Noonan

1. Call to Order – Chairperson Ron Gehl called the meeting to order at 7:04 p.m. and led the Pledge of Allegiance.

2. Citizens' Forum – Cathy Allyn, speaking as the acting chairperson of the 1772 Meetinghouse Restoration Committee, reported on a meeting with preservation expert Steve Bedard. She indicated his estimates to repair and restore the pre-Revolutionary War building were within financial reach, especially with the excellent possibility of a grant from the Land and Community Heritage Investment Program (LCHIP).

3. Talent Bank Volunteers

The Board met with individuals who indicated their willingness to serve on various Town boards and committees, and had turned in Talent Bank applications.

Matt Rabideau indicated his desire to serve on the Parks and Recreation Commission in the event of a vacancy. He said he had been coaching sports in New Durham for six or seven years and wanted to become more involved in the town. Selectman Terry Jarvis asked what he would want to see accomplished. Mr. Rabideau replied he would like to ensure some programs go forth, have more clinics, and be involved in sports organization.

Ryan Heath said he was interested in serving on the Parks and Recreation Commission, also, although he was open to being on other boards or committees. He said he had lived in New Durham for three years and his wife was a New Durham native. He has been coaching in New Durham, but wants more involvement with the decision-making aspect of the Recreation department, especially in care of the fields. He told the Board he was captain of the Alton Police Department and has been involved in Alton, but wants to be more involved in his hometown. He said he had experience in budgeting and providing services on a tight budget. He is also a general contractor and has a background conducive to repair and maintenance of the Smith Park.

Jaime Brulott said she has lived here since 1985 and wants to get involved. She indicated interest in several committees, and has also coached. She said her mother's family, the

Garlands, has been in the area for years. She said she has no children and wants to give all kids a fair chance.

Chair Gehl commented it was refreshing to have volunteers so eager.

Linscott "Skip" Fadden said he would like to serve on the Ethics Committee. He indicated he served on various committees as a member of the School Board, and has been involved in the Town in a variety of ways through the years. He said the Ethics Committee was a nice fit for him, as he believed in the principles of ethics. Selectman Jarvis asked if Mr. Fadden was currently serving on any other board, and he said he was not, thereby making a position on the Ethics Committee ideal. Selectman Jarvis asked if he was still the photographer for the fire department. Mr. Fadden said he was not, but added his admiration for the fire department personnel who devote hours and hours of time to their fire fighting and emergency medical interests and training.

Chair Gehl said the Board typically takes two weeks to consider appointments. He noted possible vacancies on the Parks and Recreation Commission, the Ethics Committee, and the Zoning Board of Adjustment. Town Administrator April Whittaker said Helen Wellman expressed a desire to move from an alternate to a full member on the ZBA. Selectman Jarvis said five alternates could serve on the ZBA. TA Whittaker said she would ask Jeff Kravotil if he would be interested in serving on the Trustees of the Trust Funds, as that board had more flexibility with scheduling to fit his work schedule, if the Selectmen approved the action.

4. Non-public Session

Motion by Selectman Jarvis to enter non-public session at 7:25 p.m. under RSA 91:A:3 II (a), setting compensation for an employee; second by Selectman David Bickford. A roll call was taken. Gehl – aye, Bickford – aye, Jarvis – aye.

The Board met with Solid Waste Facility Foreman Joe Bloskey.

Public Session - The Board reconvened in public session at 8:48 p.m.

Motion by Selectman Bickford to bring Joe Bloskey's pay up to what was allocated at Town Meeting; second by Selectman Jarvis. Vote: 2 – 1; Gehl – nay, Bickford – aye, Jarvis – aye. The motion carried.

Following the vote, Mr. Fuller requested a non-public session under RSA 91-A: 3 II (a). The Chairman indicated that they would meet following completion of the agenda.

5. Department Reports

Police – Police Chief Shawn Bernier provided the Board with a breakdown of activities so far this year, including 433 calls, 667 cars stopped, 30 accidents, and five attempted suicides. Regarding Involuntary Emergency Admissions this year, he reported an officer must sit with an individual for five or six hours at the hospital. He attributed the suicide attempts to the economy and resultant depression. Chief Bernier reported last year's burglary suspect will serve time in state prison. He told the Board the rugs will be

installed on Wednesday. He also sent in a letter to SPOTS (state police on-line telecommunication system). Chair Gehl said the Town would save a lot of money and time if we were part of SPOTS. TA Whittaker advised Mr. Bickford, who had expressed concern at the annual leasing fee, that background checks could be run from the system to off-set the annual cost.

Highway – Road Agent Mark Fuller said Steve Edwards met with him on Friday to discuss the gate he erected off of Birch Hill Road. He said Mr. Edwards will work on making it safer by posting additional signs and loosening the cable temporarily until installing a plastic hook to make it breakaway. RA Fuller indicated there was a walk around there. Selectman Bickford said RA Fuller’s memo gave the impression that he was approving a cable. RA Fuller said a cable could be considered a gate, and Class VI roads are subject to gates and bars. Chair Gehl said a plastic hook put on the end addresses the breakaway aspect. He said a point or points where the attachment can break would be a safe way to go. RA Fuller assumed the gate would be year-round, but he did not ask that question of Mr. Edwards.

RA Fuller reviewed the paving bids with the Board. The project includes shim and overlay, tack coat, and shoulders with crushed gravel (supplied by the Town) for 1.42 miles from Ridge Road Top to Ten Rod Road. He said he contacted six companies and five bids came in, all higher than expected. He explained that the oil supplier raised the price of asphalt \$68 a ton, due to anticipation of economic stimulus money. He said there was enough money to complete the project, and recommended low bidder Pike Industries.

Motion by Chair Gehl to award the 2009-paving bid to Pike Industries for \$102,285; second by Selectman Jarvis. The motion carried unanimously.

Bid Waiver requests – RA Fuller requested two waivers of the purchasing policy for winter sand and calcium chloride. Regarding the sand, he said when he investigated other suppliers a few years ago, they were all at least four to five dollars a yard higher than the supplier the Town has used for years. He recommended staying with that person, noting a \$2/yard increase to \$10/yard, with the potential for slight up ticks dependent upon fuel prices. He asked to waive the purchasing policy to obtain the favorable two-year price from Charles McKay. He said he uses 4,000 yards a year. Chair Gehl said, per market rates, this offer was very favorable. RA Fuller said especially so, since it was for two years.

Selectman Jarvis said the request for the waivers is reflective of the purchase policy. She said she asked that the policy be discussed at this meeting and it was not on the agenda. She said the policy should address sole source. Chair Gehl remarked that that was why the Board could grant a waiver for sole source. Selectman Jarvis said she did not like waiving the policy all the time. TA Whittaker explained that the Board does not waive it all the time. Chair Gehl said coincidentally there have been two waivers in two meetings, but overall a waiver is rare. Also it was noted that this is the time of the year when most bid requests are processed. Selectman Jarvis said she has noted several. TA Whittaker asked her to put the instances together for discussion. She told Selectman

Jarvis that the issue of the purchasing policy is within the selectmen's goals, which is on the agenda.

Chair Gehl said this vendor has consistently offered the Town prices lower than anyone else. RA Fuller said he could confidently say that the quote is a savings and the Board could waive the policy.

Motion by Chair Gehl to waive the element of the purchasing policy in respect to multiple bids for the winter sand bid, due to the favorable prices offered by a local vendor; second by Selectman Bickford. The motion carried unanimously.

Motion by Chair Gehl to accept the quote provided by Charles McKay Aggregates and Construction for 4,000 yards of winter sand delivered to the Town of New Durham Highway Department prior to October 15 at \$10.00 per yard, with a 25 cent increase per yard for every one dollar increase at the pump, with the base fuel rate being \$2.25, for two years; second by Selectman Jarvis. The motion carried unanimously.

State Bid for Calcium Chloride – RA Fuller said there is only one supplier who will tailor exactly what the Town needs. The price is 99- cents per gallon, and the Town uses about 20,000 gallons. The price includes delivery and application. The calcium chloride helps with dust problems and makes the road harder to prevent loss of material. Chair Gehl said the application makes a dramatic difference regarding dust, and preserves the surface. He said this supplier is the only game in town for application. RA Fuller added that the application is calibrated, and that the bid is the state bid, therefore the product has already been bid.

Motion by Chair Gehl to waive the element of the purchasing policy in respect to multiple bids regarding calcium chloride; second by Selectman Bickford. The motion carried unanimously.

Motion by Chair Gehl to award the calcium chloride application to Allstates Asphalt Inc., per the state bid price of 99 cents per gallon; second by Selectman Bickford. The motion carried unanimously.

Fuel for Alton equipment – RA Fuller said the Town supplied fuel for Alton town equipment when their pumps were not working. He said he would bill for it.

Solid Waste Roof – RA Fuller reported the roof at the Solid Waste Facility has had all screws replaced, soffits closed in to retain the insulation, all joints sealed, and some painting to prevent leakage. He said other painting projects are to be undertaken, as well as a new demolition guard building to be constructed.

Building/Code Enforcement - Building Inspector/Code Enforcement Officer (BI/CEO) Arthur Capello said he checked out the Edwards property off of Birch Hill Road. He said a walk of the Main Street property determined that the owner is in violation of the court order, as he was not allowed to sell anything until a decision was made regarding

a site review, so BI/CEO Capello sent a letter to Town Counsel. He said the case is scheduled for an October trial in Superior Court. He told the Board the home occupation case might come to court in May, but attempts were still being made to settle it out of court.

Regarding the fire ruins on Ten Rod Road, he said the one-year deadline to clean up or rehabilitate is up September. He said certified letters he has sent to the owner have come back, and there has been no response to the ones he has sent through regular mail, which were not returned. He asked if the Town would support placing a lien against the property and pay for clean up in September, if there is no word from the owner. Chair Gehl said it was the only recourse open. TA Whittaker suggested drafting another letter and hand delivering it to the owner. She also suggested that the process should it come to town clean up be taken up with Town Counsel to ensure correct administrative warrants.

Motion by Selectman Jarvis that the Code Enforcement Officer continue with his efforts to contact the owner, and should the due date come with no action by the owner, the Town will remove the structure and place a lien against the Bast property, known as tax map 1 lot 15, 105 Ten Rod Road, with 30 days notice to the owner, under the regulatory forces per Town Counsel; second by Selectman Bickford. The motion carried unanimously.

Trailer - BI/CEO Capello noted that in February, the Board granted an extension to the Garland family until July 1, 2009 to remove the trailer from their property. He said he received no response to that letter, and will send them a reminder letter.

6. Administrative Review

- ❑ The Board scheduled its next meeting for *May 11, 2009 at 7:00 p.m. at Town Hall.*
- ❑ *Barn Site Walk* – TA Whittaker said the date for the public hearing on the two barn preservation easement applications could be set for May 18, 2009. The Board set a site walk for the Randall barn for 6:30 p.m. on May 11, 2009.
- ❑ *LGC Multi-year Rate Guarantee Program* – Chair Gehl read the authorizing resolution regarding the Local Government Center’s property-liability trust (see attached), adopted on April 20, 2009.
- ❑ *Tax Deeded Property* – Chair Gehl indicated the Town owns the property abutting the lot previously owned by Eric Guenard. He said the Town’s zoning ordinance states if two lots, not meeting current ordinance requirements come into possession of one owner, they are merged. TA Whittaker said she spoke with Mr. Guenard and he was willing to pay to have his property returned. Chair Gehl asked if he was aware the lot was landlocked. TA Whittaker said she was unsure of that, since that information came from Copples Crown Village District Commissioner Christopher LaPierre in a later e-mail. Chair Gehl said there is no street there, and that the Board had been through this situation before in that area. He said the street is a paper street and the owner would be responsible for building a road. TA Whittaker said the fact that the lots are now merged makes it a tough decision for the Board of Selectmen. Selectman Jarvis

said the Town has had ownership for only two months. The Board briefly discussed that Mr. Guenard may not want the land back if he has to build a paved road in order to get a building permit. RA Fuller said a road would cost approximately \$175 a linear foot. Cul-de-sac construction would also have to be included. Chair Gehl said Mr. Guenard would have to pay \$2,699.80 in back taxes, interest, penalties, and legal costs. The Board agreed to alert Mr. Guenard that he would have to build a road. Selectman Bickford expressed concern about misleading him. Chair Gehl asked TA Whittaker to make it clear the Board has not yet decided to release the lot to him.

- *Tax Maps* – TA Whittaker reported a meeting with Cartographic Associates. She said a public hearing could be held in the late summer or early fall, and that the new tax maps should be ready in the fall. She said the new tax numbers will be used in 2010, and that this stage completes the project.

7. Old Business

Street Names – Chair Gehl referred to the change in street names as a bureaucratic boondoggle, a term not normally found in legalese, but delightfully descriptive nonetheless. He said he has not seen well-supported reasoning for changing some of the names. He said the biggest issue centered on use of directionals, citing E-9-1-1 recommends changing a name that has north or south in it to something unique. He suggested writing to E-9-1-1, explicitly stating what the implications are in town, and have them reply with their reasoning as to why the name needs to be changed. TA Whittaker said the Town had already undertaken this action and that E-9-1-1 will not comment to the extent that Mr. Gehl is desirous of. She reminded him that the Bureau say they are only making recommendations; and that it is the Selectmen who make the ultimate decision to take up their recommendations. Chair Gehl said he was aware of that, but hoped that if the communication came from the Board and was explicit, they would provide their reasoning. He said he needed a compelling reason to change the names.

Selectman Bickford said he spoke with Michael Kelleher of E-9-1-1, and they recommend making changes based on certain criteria available on their website. He said the recommendations come from three sources. He said many made sense. Regarding directionals, he felt that one directional has to go; for example, he said if North Shore Road remained, the Town could not use Shore Road for South Shore Road. He said the names must be distinct.

Chair Gehl said he had spoken with fire department personnel, and that Lakes Region dispatch calls out street names and then specifies the intersections on either side of the address. He said that was so explicit you could not confuse the address. Selectman Jarvis said she thought the list of suggested names to change was fair, and that the Town should follow the recommendations given heightened liability issues since the recommendation from the E9-1-1 Bureau. She said other counties might not dispatch calls the same way as Lakes Region. She said changing the shore names will cause controversy, but for safety's sake, the Town needs to follow the recommendations of the

people who make the calls. She pointed out, again, a higher culpability if the Town did not follow the recommendations.

Selectman Bickford said Alton and Farmington changed some street names and it was not that bad. BI/CEO Capello noted that 25 per cent of Farmington's road names were changed. Selectman Jarvis asked if any street names were changed following the public hearings that the Select board conducted in December. Chair Gehl said they were not, as the public hearings were informational and provided opportunities for public input. BI/CEO Capello emailed the Board the link to the information from the Bureau of Emergency Communication that Selectman Bickford had spoken of. Chair Gehl said he had not yet seen good justification for going through this upheaval. Selectman Bickford suggested it might be prudent to start small and start easy. TA Whittaker said, logistically and administratively, she would prefer to do it all at once, as several agencies would need to be notified. Chair Gehl proposed plotting out a schedule for proceeding with the matter at the next meeting.

Background Check Policy – The Board reviewed the Parks and Recreation Commission's background check policy. TA Whittaker said the Board did not have the newest update, as her email was down that day. Chair Gehl said he had no issue with the Commission using a policy. Selectman Jarvis said she was in favor of having a policy. She asked if the payment for the checks would come from the revolving fund, before membership in SPOTS. TA Whittaker advised that Kristyn Bernier had volunteers to run the checks for sexual offenders. Chair Gehl clarified that she would do this as a professional courtesy. TA Whittaker said the SPOTS terminal should be here by August, if the Town gets the grant, which would be in time to do checks for soccer season. The Board agreed it had no issue, once the final language came before it.

Smith Building Permit Request – TA Whittaker indicated no additional documentation was received regarding Stephen Smith's request i.e. Ownership deed. Chair Gehl said there was no evidence the deed was transferred yet to Mr. Smith, so no action was taken.

2009 Appointments – The Board signed the appointment form for Chris LaPierre's re-appointment as a member-at-large of the CIP Committee. Regarding the three-year term for fire chief, Selectman Bickford suggested the fire department membership vote. Selectman Jarvis said she would like to speak to Chief Peter Varney. TA Whittaker asked if the Board would like the fire department to hold a vote in the same format as last year. She advised 2008 was Chief Varney's interim term. The Board had set April 1, 2009 to start the next term, which would be for three (3) years.

Priorities Listing Sheet for Strafford Regional Planning Commission – Chair Gehl said he focused solely on the municipal priorities. He indicated his priorities to be: sidewalks and Safe Routes to Schools, funding, Rt. 11 Park and Ride, and flood avoidance. Selectman Jarvis listed: funding, flood avoidance, Park and Ride, bikeways, and sidewalks. Selectman Bickford listed: road maintenance, transportation for seniors and the disabled, and sidewalks. Selectman Jarvis brought up the lawsuit against Tilton for not maintaining its sidewalks. TA Whittaker said Tilton lost the suit. Regarding sidewalks, Selectman Jarvis said she was concerned about possible contention due to

property being taken. Chair Gehl stated no property needs to be taken for sidewalks, as there are easements. Mr. Fuller advised that the State and Town had a 66-foot ROW. TA Whittaker said she would tell the SRPC that the Board was split and she was sending in their individual priorities.

Use of Town Beach Draft Application – The Board read the draft of the use of town beach application. Selectman Bickford noted the language suggested use by non-profits and residents using it short term, but not for private parties. TA Whittaker felt the most important first step would be to have the Board determine if they even wished to take up possible use of the Town Beach on a short-term basis for fundraisers or private use. Selectman Jarvis said she was opposed to granting use of the beach. She said it was paid for with Town funds for the purpose of residents' use. Chair Gehl said because of the size of the beach, it would be difficult to allow use of it without upending its regular use. Selectman Bickford said there was merit in the idea of allowing its use, and Chair Gehl agreed, but noted the logistical difficulties. Selectman Bickford asked if the Parks and Recreation Commission could allow use of the beach on its own. TA Whittaker said the Board needs to be aware of the use, for liability concerns, and assurances re trash, sanitary conditions, fire hazards etc. Selectman Bickford suggested allowing its use in September or October, or allowing simple weddings when the beach is open. Selectman Jarvis said the beach area was small, and that she would not go down the path at all to consider its use. Chair Gehl suggested revisiting the matter later. Selectman Jarvis said she would like to hear from the Commission. TA Whittaker advised that this was the first step that she had undertaken in pursuit of opinions and as yet, she had not received feedback on the issue from the Police or Fire Departments, or the Commission. The board requested that she pursue the same for one final time.

Selectmen's 2009 Goals – Chair Gehl said traditionally the Board has held a separate meeting to address the items listed in the goals, as it is time consuming. Due to scheduling difficulties, he asked it be put on the May 11, 2009 agenda.

Auditors' 2008 Preliminary Recommendations – Chair Gehl said this was the first time the auditors provided feedback on items during their initial review. TA Whittaker advised that it was part of the new Government Finance Officer's Association (GFOA) guidelines. Chair Gehl acknowledged they were stringent guidelines, and that the auditors will expand on these issues, but they wanted the Town to be aware of preliminary findings. TA Whittaker said she appreciated the early findings, and saw it as a management tool. She said they are expecting the Town to make solid something that is not solid now. Chair Gehl agreed the feedback was valuable and meant to improve things. He said the Town has a pretty tight ship, and that they are helping it to get a five star rating. He said it was not negative feedback. TA Whittaker said the comments note some things to work on and strive to improve. Chair Gehl requested that the relevant parties be informed of the comments. TA Whittaker advised that she was already undertaking the task. Selectman Jarvis said there were only 7 or 8 recommendations, and three of four of them are noted as "not significant". Chair Gehl said the feedback he received was positive from the auditors noting the town was in good shape. He said the Town has come a long way in a few years.

8. Approval of Minutes

The following amendments were made in the minutes of April 6, 2009:

- Pg. 1 – under Citizens’ Forum; 8th line down, replace the word “on” with “near” to read “others who live near the dirt road”
- Pg. 2 – first full paragraph, third to last line, add “with ATV clubs” after “needs to be addressed”
- Pg. 3 – 3rd paragraph, last line, add the sentence, “The Board requested all materials to be sent to TA Whittaker for distribution.”
- Pg. 4 – 3rd paragraph, third to last line, replace “concerning” with “to install.”
- Pg. 6 – 3rd paragraph, 4th line, replace the period after purchasing policy with a comma, 4th paragraph, 2nd line, replace “something” with “the forestry unit”
- Pg. 7 – 1st full paragraph, 1st line, replace “pump” with “skid unit”
3rd paragraph, 1st line, strike “future” and add “at the next meeting” after “current policy”
1st line, replace “old” with “original”
- Pg. 8, 1st paragraph, last line, add “The motion was superceded.”
3rd paragraph, 3rd line, replace “was” with “may have been”
4th motion, 2nd line, replace “\$13,500” with “\$1,350”
- Pg. 9, 1st motion, 3rd line, replace “licensing” with “leasing”
- Pg. 10, under Street Names, add “to the next meeting” following street renaming
- Pg. 13, 2nd motion, 1st line, replace “the” with “one of the”; 2nd line, add “s” to member. Under Audit 2008, 1st line, replace “reviewed” with “received”
- Pg. 14, under Any Other Business, replace “HB844” with “HB644.”

Motion by Selectman Jarvis to accept the minutes of April 4, 2009 as amended; second by Selectman Bickford. The motion carried unanimously.

9. Non-public Session

Motion by Chair Gehl at 11:10 p.m. to enter non-public session under RSA 91:A:3 II (a) and (e), setting compensation for an employee and potential acquisition of real estate; second by Selectman David Bickford. A roll call was taken. Gehl – aye, Bickford – aye, Jarvis – aye.

The Board met with RA Mark Fuller to discuss an employee compensation issue and TA April Whittaker to discuss real estate potential acquisition. The Board returned to regular session at 11:46 PM with no decisions having been made in Non Public Session to be acted upon in regular session.

Motion Jarvis to seal the Non Public Minutes from both sessions, second Bickford, vote 3 – 0.

10. Adjournment

Motion Bickford to adjourn at 11:50 PM, second Jarvis, vote 3-0.

Respectfully submitted,

Cathy L. Allyn

Approved: New Durham Board of Selectmen minutes 04/20/09

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.