

**Board of Selectmen
27 July 2007
Minutes**

5:45 p.m. - Chairman Rachel Hatch called the meeting to order. Present were Chairman Hatch, Selectmen Betty Ann Abbott and Don Guarino, Town Administrator Tim Warren and Clerk Lois Dionne.

5:46 p.m. – Enter into Non-Public Session as per RSA 91-A:3, II(a)

Selectman Abbott moved to Enter into Non-Public Session as per RSA 91-A:3, II(a) - Dismissal, promotion or setting compensation for public employees or the investigation of any charges against him, unless the employee affected has a right to a meeting or requests that the meeting be open, in which case the request shall be granted. Selectman Guarino seconded. Motion passed 3-0.

The Selectmen discussed a personnel issue.

6:19 p.m. – Out of Non-Public Session

Selectman Abbott moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 3-0.

6:20 p.m. - Enter into Non-Public Session as per RSA 91-A:3, II(a)

Selectman Abbott moved to Enter into Non-Public Session as per RSA 91-A:3, II(a) - Dismissal, promotion or setting compensation for public employees or the investigation of any charges against him, unless the employee affected has a right to a meeting or requests that the meeting be open, in which case the request shall be granted. Selectman Guarino seconded. Motion passed 3-0.

The Selectmen conducted a Department Head evaluation.

6:50 p.m. – Out of Non-Public Session

Selectman Abbott moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 3-0.

MOTION – Selectman Abbott moved to appoint Justin Leavitt as full-time Transfer Facility Manager effective immediately. Selectman Guarino seconded. Motion passed 3-0.

07-27-09 BOS

Newspaper Recycling – Justin Leavitt said the price you could get for recycled newspaper has gone up in comparison with the price for other paper. He spoke with the Selectmen about separating newspaper from other paper. Justin said that in order to do that he would have to build two new bins, and change things around. After a brief discussion, Justin was asked to compare the cost of building the bins to what the Town would gain in revenue.

6:55 p.m. - Enter into Non-Public Session as per RSA 91-A:3, II(c)

Selectman Abbott moved to Enter into Non-Public Session as per RSA 91-A:3, II(c) - Matters which, if discussed in public, would likely affect adversely the reputation of any person unless such person requests an open meeting; however, this cannot be used to protect a person who is a member of your Board, Committee or Subcommittee.

The Selectmen discussed a code enforcement issue.

7:02 p.m. – Out of Non-Public Session

Selectman Abbott moved to come Out of Non-Public Session. Selectman Guarino seconded. Motion passed 3-0.

Public Input

Hendersons – Laurie and Bob Henderson were present to speak about an issue concerning the building inspector.

Before the Hendersons spoke, Chairman Hatch informed the Selectmen that the Hendersons had gone to the SAU office to speak with her this morning, and Rachel had told them it wasn't an appropriate time, because she was on school district time, and she wanted whatever they had to say to her to be said to all three of the selectmen, because as a sole selectman, they do not have authority to act on issues.

Laurie informed the Selectmen that she was going to start recording all the public meetings; she turned on her recorder. Laurie said she is fairly discouraged, extremely confused and somewhat taken back by events that have taken place in respect to a letter she had received from the code enforcement officer, and the communication she has received from the Town has been very confusing.

Laurie said she has done everything to try to clarify things to the Selectmen, and to stay in contact with Don Guarino, as liaison for the selectmen. Laurie said she had gone to the ZBA, and was well prepared to state her case as agriculture for her pony parties. She said she had been encouraged by Mr. Guarino, and the Board of Selectmen to go forward with her appeal as the next best step to clarify things. She said the Town Administrator and other people in the office had told her that if the ZBA didn't agree with her and overturn Bob's decision, she could come to the Selectmen and ask them to overturn the ZBA's decision.

07-27-09 BOS

Selectman Hatch questioned that Laurie had been told that the Selectmen could overturn the ZBA's decision; she said they don't have that authority.

Laurie said Tim had given her that information today (the Selectmen couldn't overturn a ZBA decision). She said Tim and Lynne had gotten information from the LGC, but Lynne had gotten information from a female attorney and Lynne felt the information was erroneous, and had given the information to Tim. Laurie wasn't comfortable about who had given the correct information, the female attorney Lynne had spoken with or the attorney Tim had spoken with, or if there was a gray area.

Laurie added that she feels that maybe she needs legal representation to understand what the RSAs are and which ones they should follow.

Laurie said the main reason she is here tonight is because she felt the meeting that had been conducted by the ZBA on July 16th was not a professionally run meeting, especially during the deliberative session. She said the only people present during that session were herself, her husband, the ZBA, Bob Flanders and Annette (clerk).

Laurie stated that in the copy of the preliminary minutes of the meeting she had received today, she noticed a lot had been left out. She said she had asked Annette for a copy of the audiotapes of the meeting, and had specifically stated that she needed the entirety of the meeting from the public hearing portion through the deliberation, which when she had asked if that was for public use, was told it was. Laurie said she had never been told that they didn't have the taped portion of the deliberation. She said at the end of the public hearing portion, the tape goes to dead air. Laurie said it does have a discussion between Annette and another person, a male, who asked if they should put another tape in, and Annette had replied that it depended on how long they talk, and then the tape goes to dead air.

Rachel said that Tim had informed them of what happened, and apparently after the end of the public hearing, the tape hadn't been turned back on. Selectman Abbott explained that when the Planning Board members left the meeting to go downstairs, the tape had been turned off, and they had neglected to turn it back on.

Rachel asked if Laurie had a copy of the minutes. She replied that she did, but didn't feel they were conclusive. They highlight the decisions, but the chair had stated that during deliberations, the public was not to have any input. Laurie said Mr. Gray had been looking for a copy of the statutes she had copied for the meeting, and she stood up to offer him a copy she had; she had done so without speaking, and was yelled at to set back down and not speak. Laurie said the ZBA Chair had noted that Laurie wasn't speaking, but that she (Laurie) sat back down. She said during the deliberations, there were many times when she felt they were overlooking some obvious things Laurie had stated in the statutes. She said the Board allowed Bob Flanders to speak on two occasions.

07-27-09 BOS

Chairman Hatch said the ZBA is a Judicial Board, and they are correct in saying there should be no input during deliberative session, but if they allow it, it is beyond the Selectmen's purview. She said the Selectmen cannot address the issue of Bob having been allowed to speak, but not the Hendersons. Chairman Hatch said the Selectmen had recommended the Hendersons appeal the administrative decision made by Bob to the ZBA; they did that, and their appeal was denied. She said the next step is to apply for a rehearing with the ZBA to appeal their decision, and if they weren't satisfied with that decision, their next step would be to go to Superior Court. She said the Selectmen's hands are tied in this matter.

Laurie said she is asking for the Selectmen's support. Chairman Hatch asked what she meant by support. Laurie said when she had first spoken with the Selectmen about the issue, they had stated that there was an easy resolve to her situation; they saw that her use of her property for pony parties was either agritourism or home occupation. Chairman Hatch said she felt it had been just one Selectman who had indicated that, not the whole Board. Selectman Abbott said they had all hoped it would be easily resolved. Selectman Guarino said they had spoken with Bob before the ZBA meeting; he is the Selectmen's Representative on the Planning Board and the Planning Board had also discussed it, and felt it was agritourism or home occupation, but the only way to appeal the decision of the building inspector was to file an appeal of decision with the ZBA. The Selectmen don't have the authority to overturn Bob's decision.

Bob Henderson said this is foolishness and said there is a rift between Laurie and Bob. He said Bob doesn't like Laurie. He said going back two years they have received certified letters about having wastewater going into wetlands, paid fines for an aboveground pool; everything was unfounded. Bob Henderson said Bob Flanders had put a stop-work order on an addition on their house; two builders working on the house said they didn't need a building permit, but Bob stopped it.

Mr. Henderson said Bob had said that Don had gone through their house and said it wasn't safe for pony parties. Don said he didn't say that. Mr. Henderson said Bob had also said the fire chief went through the house, but the fire chief had said he never went through the house. He said Mr. Flanders has a problem with the Hendersons, and it keeps getting deeper, and they thought the Selectmen were the stopgap between the taxpayers and overbearing people in town using their positions and going too far.

Laurie said Bob is an employee of the Town hired by the Selectmen, and she feels she is being harassed, as a woman businessperson. She said he has never shown her anything in writing, but keeps making comments that people are complaining about what she is doing, and he has to follow through on complaints. Laurie added that she has numerous pictures of things Bob is ignoring.

Chairman Hatch said Bob is our employee, but without Bob here to address Laurie's concerns the Selectmen can't go any further at this time.

07-27-09 BOS

Laurie said she wants to be scheduled on the next Selectmen's agenda, and she wants to have a non-public meeting with the Town attorney and her attorney to discuss Bob's harassment of her. Chairman Hatch said they would not discuss it unless Bob Flanders is present because they are only hearing half of the story. She said it seems to be a personal issue between Bob and the Henderson's, and the ZBA issue is something separate. Rachel asked Tim to schedule a meeting at a time when it would be convenient for Bob and the Hendersons.

John Roy – John Roy stated that he had an incident at his home about a year ago when his car and house were shot. He said the police department had taken a report; they know who did the shooting, but it has been a year and he has still not been paid for the damage, and it is still in limbo. Mr. Roy said the State Police had told him to come to the Selectmen. Chairman Hatch said she had spoken with the police chief, and he had informed her that it is an ongoing investigation; it has not been resolved. She said the chief had told her that they had been waiting for some information that Mr. Roy only recently provided to them, so they can now move forward. Mr. Roy said he had given the chief an estimate a couple of months ago.

Chairman Hatch said the Selectmen couldn't interfere with an ongoing investigation.

Mr. Roy said he doesn't know why it is an ongoing investigation. He said they know who shot his house but nobody was arrested; the police officer made a deal with the prosecutor that nobody would be arrested. Mr. Roy said the deal was that if they paid him, he wouldn't press charges. He said nobody has paid him, so he wants to press charges, and nothing is being done about it.

Selectman Abbott asked when he had last spoken with the chief. Mr. Roy replied that it has been a few months. Mr. Roy said he doesn't want to hire a lawyer. He reiterated that somebody knows somebody, so the police didn't arrest anyone, but he wants to get paid and wants to press charges. The selectmen asked if he had made a deal not to press charges if he got paid for the damages. He said that hadn't been his deal, it was Officer Currier's deal. When asked if he agreed to the deal, he said he had under duress. Mr. Roy said after all this time he wants his money, but also wants satisfaction and wants somebody arrested

Chairman Hatch said she would follow up with Chief O'Brien, and then would follow up with Mr. Roy, but they cannot override an ongoing investigation.

Acceptance of Edward Dr. as Town Road – Jim Hutchins and Scott Lacasse were present to find out what had to be done to have the Board of Selectmen support them in getting Edwards Drive accepted as a Town Road. Mr. Hutchins said the only thing they have to do to the road is topcoat it, and they plan to do that in the fall. He wanted to know if the Town required anything else to be done to the road before they apply the topcoat such as core tests, etc.

07-27-09 BOS

Tim said that Road Agent Paul Perkins had taken a look at the road, and felt the topcoat was what needed to be done; he wasn't sure if there were drainage issues. Mr. Lacasse said they are building a house there, and because of the rain there had been a washout, but that has been cleared up, and swales had been made. He said there is a 15" culvert that goes to a catch basin.

Chairman Hatch pointed out that even if the Selectmen support a warrant article, the road would have to be accepted by a vote at Town Meeting. In response to Selectman Abbott's question as to why it should become a Town road, Mr. Hutchins said the agreement, when the subdivision was approved, was that when the project was 51% completed, it could become a town road (they are at 95%).

Mr. Hutchins and Mr. Lacasse will meet with the road agent, and when he is satisfied with the road, they can meet with the board again to discuss presenting a warrant article.

FYIs & Other Minutes

Approval of Minutes - The Selectmen reviewed the minutes of their last meeting.

MOTION – Selectman Abbott moved to accept the minutes of July 13, 2009 as presented. Selectman Guarino seconded. Motion passed 3-0.

US Dept of Agriculture Rural Development (USDA) – Tim had a letter from the USDA regarding a Rural Development 504 Loan and Grant Program intended to provide very-low income homeowners with the opportunity to make improvements to their homes, such as a new heating system, well, septic system, windows, roof, ramp, etc.

Eligible applicants can borrow up to \$20,000 at a fixed interest rate of 1% for up to 20 years. They also offer grants up to \$7,500 to homeowners who are at least 62 years of age, and don't show repayment ability for a loan.

A poster with more information will be at both post offices and on the bulletin board at the Academy building.

Change to Personnel Policy - The Selectmen reviewed the draft of a change to the personnel policy regarding "unpaid time off". The Selectmen made one minor change to the draft.

Lease – Iron Works Fire Station – Tim presented the Selectmen with a copy of the lease for the Iron Works Fire Station for their signature.

Preliminary Drawing – Culvert – Donovan Road - Tim presented the Selectmen with a preliminary drawing for the culvert the Morrills are going to replace on Donovan Road. Upon reviewing the drawing, a couple of questions arose. There was concern as

07-27-09 BOS

to whether the headwalls would meet DES specifications, and how the water was to be displaced while replacing the culvert. After a brief discussion, it was felt that because the plan has to be submitted to DES, these things would have to be taken care of before the Morrills could get a permit to replace the culvert. Selectman Abbott asked that the plan be shown to the Road Agent for his comment. Selectman Guarino felt this would become a regular dredge and fill permit.

Belknap County Commissioner's Office – Tim informed the Board that we had received a letter from the Belknap County Commissioner's Office recapping their meetings with individual towns, with high points they noted. They will be holding a "Wrap-up" Forum on Wednesday, August 12th at 6 pm at the County Complex. The meeting will be open to the public.

Letter – Roger Dussault -Building Inspector's Hours – Tim had a letter from Roger Dussault (copy Attached) expressing concerns that Bob's limited (reduced) hours are having a negative impact on contractors trying to get inspections done, and also on some health and safety matters.

Letter – Dave Nagel – Flags – Tim had a copy of a letter David Nagel sent to the Local Boy Scout Troop regarding the "flag project" (copy attached). Mr. Nagel had sent a donation to the Scouts for the project, expressed his concern about the condition of some of the flags, offered suggestions for fundraisers and also offered his help with the project.

Items out to Bid? – Selectman Abbott asked if the lights for the fire department vehicles and the protective clothing were something that had to be put out to bid. Tim replied that the chief had gotten prices for the lights. He said there are usually two places that could supply the protective clothing. Tim was asked to have Chief Lockwood get prices from both vendors.

Gas Pump – Selectman Abbott asked if the gas pump at the highway garage had been replaced yet. Tim didn't think it had been done, but will check on it.

Clean Up – Crystal Lake Park - Selectman Abbott asked if Don had checked on the cleanup after the fireworks at Crystal Lake Park. Don said he had called, but hadn't been called back. He said he understood, however, that Judy Williams had done the clean up.

Fill - Chairman Hatch said Chief Lockwood had indicated to her that Jim Hurst of Wolcott Construction had found a company (Busby in Laconia) who is willing to sell the town fill at cost plus \$1 per yard to start the safety-building project.

Chairman Hatch stated that the Selectmen don't have the authority to expend the funds for that right now.

07-27-09 BOS

Explosive Devices - Chairman Hatch informed the Board that the Fire and Police departments had received a call sometime Friday night or early Saturday morning regarding three individuals from Mass, one of who owns property in Gilmanton. The individuals had bought some explosive devices and were shooting at the devices on the property; it exploded and blew off part of one individual's arm; he is still in the hospital. Chairman Hatch said a big concern is that there was no list of ingredients in the explosives. The State Fire Marshal's Office and the State Police Bomb Squad were called. They were very concerned that these devices are being set off in people's yards.

8:10 p.m. – MOTION – Selectman Abbott moved to adjourn the meeting. Selectman Guarino seconded. Motion passed 3-0.

Respectfully submitted,

Lois Dionne
Recording Clerk

Roger Dussault

86 Oakcrest Ln.
Gilmanton NH. 03237
603 770 4036



BY:.....

503 Province Rd
Gilmanton NH 03237

Attn Selectmen :

Please be advised that this letter is a follow up of an important concern that I brought up at a recent Selectmen's Meeting regarding our Building, Code Enforcement, Health and Safety officer.

I am a taxpayer and a contractor in town and have recently engaged in a building project on a property that I own in town. I applied for a building permit for this project and at this time I was informed that I could only schedule inspections for Mondays and Wednesdays. At this time I didn't think it would be a problem working within those days. As my project progressed and I called for my inspections this did become a problem. It came to my attention that the Official that conducted these inspections had too much on his plate to schedule these inspections timely as he was also dealing with Code Enforcement and Health and safety as well as Building Inspections. Then came the week with the Memorial day holiday and I needed another inspection, I was informed that I would have to wait a full 11 days to get an inspection due to the holiday and a seminar that the Official had to attend. I wish to state that this is unacceptable, at that point my project went from a building project to a Health and Safety issue. I wish to state that my current tenants at that site have a 3 year son who like all 3 year olds is into everything. I also wish to state that no matter how safe I try to make the conditions it is still quite unsafe for a 3 year old child to be exposed to. If our Official would have been working on Friday my inspection could have been completed and the situation would have been dramatically different. I will state that although no accident happened one certainly could have. It is this writers belief that we need someone on duty and more readily available to the public.

Please be advised that timely inspections are also an issue of financial burden for those who are trying to complete a project so we may close our construction loans. It is this writer's opinion that it is unfair to subject citizens and contractors to these financial burdens especially in these trying times.

I also wish to state that I am aware of other situations with regards to Health and Safety that I have reported and still have not been addressed as of this writing. When I asked the Official why nothing has been done, He responded that he has not had time as his plate is full for all the time allotted him and assured me he would be getting to them in order of priority in the coming weeks. One of these situations is a failed septic system and needs immediate attention. The other I am aware he as addressed as of this writing which was a home with three camping trailers where people are potentially living and a dry docked pontoon boat and countless other issues.

I think that we as a town need to address this problem of resolving how to get things done before we have a situation that will potentially end up with a lawsuit, due to the fact we cannot get things done timely and our lack of addressing this matter could put others in grave danger.

This situation has become very important to me and I have expressed my concerns to other taxpayers, residents, and contractors. I will be following this letter up with a list of concerned citizens and their signatures in the coming weeks.

R. D
7/14/09

● Page 2

July 14, 2009

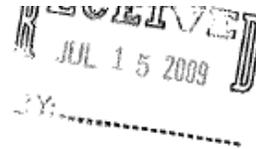
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roger Dussault", with a long horizontal flourish extending to the right.

Roger Dussault

Mailed 7/ 14/09 return receipt.

PO Box 120
Gilmanton, NH 03237
July 15, 2009



Boy Scout Troop 242
c/o Gilmanton Community Church
1807 NH Route 140
PO Box 6
Gilmanton IW, NH 03837

To the Boy Scouts,

Enclosed, please find a check for \$1500 to cover the costs for 65 new flags and poles for the "flag project".

I will make no effort to hide my disappointment with the current state of the project. I devoted a huge amount of time and money to this project and it is one of my proudest achievements as a resident of Gilmanton. Please note:

- This is a year round project. I conducted fund raising year round. If you are having trouble, please note you could easily raise the money by holding a car wash or a pancake breakfast in addition to already solicited and promised funds (\$100 from the Town, \$50 from the Women's Club, American Legion usually gives something). I estimated an annual budget of \$1000.
- **Currently only 33 of the 65 flags are up.** Most of the flags that are up are excessively faded or have slid down the pole and look unsightly.
- The flags flying off of the pole is a problem. Someone dropped one off at my house the other day and told me the flag and its holder almost hit his car. This creates a significant liability problem that I outlined to you in my Fall letter. I would strongly suggest you investigate better quality poles.
- It was my observation that the flags retain their color for about 1 ½ years. This is why I replaced them yearly. Two years is stretching it. Three years is untenable.

I will reiterate what I shared with you and the Selectmen this Fall. Completion of the project is not an option, it is a responsibility that you have agreed to. I outlined your obligations in that letter. Excuse me for being selfish, but many people identify the project with me. At the July 4th parade, several people came to me to complain, and I found that embarrassing.

If you need help, please let me know. When I left the Troop, I told you I wished to remain involved with the project. Andrew would have loved to have helped. I am sure others would assist as well. Several years ago the Fire Company offered their assistance. Perhaps the Fire Explorers could help.

Sincerely,

A handwritten signature in black ink, appearing to read "David Nagel".

David Nagel

CC Gilmanton Board of Selectmen