

**Board of Selectmen  
23 November 2009  
Minutes**

**6:00 p.m.** - Chairman Rachel Hatch called the meeting to order. Present were Selectman Betty Ann Abbott, Don Guarino, Town Administrator Tim Warren and Clerk Lois Dionne. Also in attendance were Jason Green of Waste Management, ZBA Chair Betty Hackett, ZBA member Carolyn Baldwin and Recycling Manager Justin Leavitt.

After Attendance, everyone stood for the “Pledge of Allegiance”.

**ZBA Concerns**

**Tree Trimming** – Chairman Hackett stated that one of the classes she had attended at the Local Government Center last week discussed tree-trimming case issues. She informed the Selectmen that, as a result of the 2008 ice storm, if utilities have to do planned tree trimming, they have to give all of the abutters a 45-day notice of their intention to trim the trees. Once they give the notice, if the abutters do not respond in the negative, the utilities can, at that point do tree trimming. Betty said the only recourse the abutters would have then would be to come to the selectmen or to the utility company to say they had denied this or seek compensation for trees that had been cut down. Betty gave the selectmen a copy of the RSA pertaining to this (RSA 231:172 – Cutting Trees). She also noted that the Selectmen had mentioned scenic roads at one of their meetings, and gave them a copy of RSA 231:157, which pertains to scenic roads.

Selectman Guarino was concerned about whether notification had to be given in an emergency situation, such as the ice storm. Betty said that in an emergency situation, if it is felt the tree is a hazard to restoring service, it could automatically be cut down.

**Clarification of Previous Selectmen’s Meeting Minutes** - Chairman Hatch had spoken with Betty regarding the signs on utility poles in town. Betty said in the draft minutes of November 16<sup>th</sup>, on page nine, Rachel had said that Betty said there is a hazard when people put nails in the poles, it could energize the poles.

Betty said this statement is not correct. She said the bonding and grounding on the poles could, at any point in time, be severed in which case those poles alone could be energized, so anybody that tacks in a nail could get zapped. Betty explained how the utility poles are grounded. She said this is one reason it is not a good idea to have signs

on poles. Another is that it restricts traffic visibility, especially the ones at the corner of Rtes 140 and 107. Betty said there should be no signs on the poles; these are illegal attachments, and both utilities could come back and charge whoever put the signs on the poles. Anybody can take the signs down.

Another thing that Rachel and Betty had discussed were the Henderson's concerns. Betty said she realized that is now in litigation, so they wouldn't discuss it, except to note that on page 9 of the November 16<sup>th</sup> draft selectmen's minutes, under number five of their concerns where it said Betty hadn't read a letter into the record because she didn't feel it was new information.

Betty asked to add that it (the letter) was received on the night of the meeting. Carolyn Baldwin stated that meeting was the request for a rehearing, and they don't take any input. Chairman Hatch asked if the letter was physically presented to the ZBA that evening, it hadn't been in the packet? Betty said it wasn't in the packet, and they don't have to look at it, never mind read it into the record. She said she wasn't sure what was stated to the director (who wrote the letter), so not having both sides, she wouldn't have read it in anyway, but she didn't have to. Chairman Hatch stated that the Selectmen had been under the assumption that this particular letter had been presented earlier, and was part of the hearing packet.

Betty Hackett referred to other Selectmen "approved minutes" that referred to zoning board issues, and asked that, in the future, if there are complaints by members of the public regarding zoning board issues that she (Betty) be called in or asked about them in a timely fashion, rather than have a five or six week delay, as was the case with the Henderson issue. She said she couldn't address the complaints if she doesn't know about them. Selectman Guarino noted that many of these things come up at public input. Betty asked that if something comes up at public input regarding the ZBA that she be notified. Chairman Hatch said there were questions that had come up during public input, to which she did not know the answer, so had indicated that she would get the answers. She said that she and Tim Warren had met with the couple, then came back to the Board of Selectmen and asked for their support to have her (Rachel) call Betty because of the concerns with the ZBA. She had then called Betty and they had a "chair-to-chair" conversation, which she then reported to her board. Betty Ann Abbott said the Selectmen didn't want the ZBA to feel they were "riding" them. Betty Hackett said they couldn't address it if they didn't know about it.

Betty Hackett was also concerned about statements and issues in previous minutes such as they way the ZBA did their site walks, a comment about them not having professional people on the board, and the power of the ZBA.

Betty said the reason the ZBA doesn't do a group site walk is that would be a public meeting, and would have to be posted. Carolyn Baldwin said that each ZBA case requires that they visit the applicant's property prior to their meeting. Each member on

their own; it would be very difficult to try to get them together to visit each site together. Betty Hackett said that, in regards to the statement that they should call before they go to an applicant's home, they want to see the site "as it is".

Chairman Hatch said that people bring things up about the ZBA at public input, and last week she had asked what they wanted the Selectmen to do about it. Rachel said the Selectmen are very respectful that the ZBA is a judicial board, and they have no intention of micro managing. She said that during public input they had a ZBA member present, so he heard the conversation about the ZBA, but the Selectmen send the people with complaints back to the zoning board.

Betty Hackett was concerned about a statement Israel Willard said had been made by Selectman Guarino that the ZBA had no professional people on the board. She said she felt he had probably meant no contractor, plumber or electrician, but she said there is a lawyer, a stonemason, a telephone engineer and a builder. This had been when they were discussing setting up an appeals board. Betty felt the ZBA had people from all facets of life. Betty said Don had said they had no training. Don responded that there is a big difference between a licensed electrician, a licensed plumber and a structural engineer, which is the kind of board they want to put together for a board of appeals.

Betty Hackett stated that at the same meeting, Selectman Abbott had said, "the ZBA does not have the power to do that. She said the RSA spoke to the ZBA having power to make determinations over ordinances, not over building codes, and that is a clear distinction." Betty said that is not true. She said when something comes before their board, it doesn't matter what it is for, a building code or an ordinance, they have the power to rule on it; they are the only board that does right now. Betty said she understood the selectmen are discussing setting up a board of appeals, and that is their call. Selectman Abbott wanted to clarify that her statement was in response to Israel quoting from an RSA, but the section had spoken about ordinances, and she wanted to clarify that what they were discussing pertained to ordinances, not building codes, and apologized for getting the wording wrong. Carolyn wanted it understood that when a member of the ZBA discusses issues during public input, they are speaking for themselves, not the ZBA.

There was considerable discussion about setting up a board of appeals, and that the 2006 international building code, which the town adopted, requires that the town set up an appeals board. Carolyn Baldwin was concerned that Don wanted the appeals board established because of a decision that had been made against his appeal. It was stated that this decision had nothing to do with the Wilkens case; that case is over. The reason the selectmen had never set up a board of appeals before was that, until after the ruling on the Wilkens case, no one was aware that we should have had such a board, and if a board is set up, they would not rule on past cases; it would be only for future cases. Chairman Hatch stated that, by default, because there was no appeals board in place, it was right that the ZBA heard and decided that appeal. It was agreed to try for better communication between the boards.

**Waste Management – Solid Waste Contract** – Jason Green of Waste Management was present to discuss a possible contract for the hauling of our solid waste. Until recently Waste Management handled both our solid waste (MSW) and C&D (construction waste). Due to an increase in hauling fees, and the fact that we haven't had an official contract with Waste Management for a few years, Recycling Manager Justin Leavitt has been having someone else haul our C&D for the past several months.

There was a discussion of the increase in fees and the lack of a contract. Mr. Green said there has been a change in the way things are handled, and he would be the Town's account manager. The price increase and Waste Management's unwillingness to work with Justin regarding pickups of the containers was discussed. Mr. Green felt there was no reason why Waste Management could not work with Justin if they need special pick ups. Mr. Green stated that if they just did the MSW, prices would have to be high in order to cover their costs because the law mandates that the solid waste go to Penacook, so they couldn't shop around for prices.

After considerable discussion, it was agreed that Mr. Green would review our needs, and see what he could come up with prices for a contract going forward.

**7:00 p.m. – Public Input**

**Stop-Work Order** – Claire Wilkens asked about the permitting status of work on Joanne Wilkens barn. She said the stop-work order is no longer on the building, and there is no building permit. Claire said she had asked building clerk Annette, but Annette didn't know anything about it, although she had said she didn't feel there was any work being done on the barn. Claire said she had left a note for the building inspector.

Chairman Hatch said she didn't know the answer, but would follow up on it.

**Snow Shoveling Bids** – Tim reported that he had received two bids for the snow shoveling at the Academy Building and the Old Town Hall; they are as follows:

Bill Booth Construction	\$60 per storm (academy) 30 per storm (old town hall)
Four Corners Construction	\$40 per storm (academy) 35 per storm (old town hall)

There was a brief discussion of the bids. The Selectmen wanted clarification of when and how often during a storm the shoveling would be done. Tim will check with the bidders before a decision is made.

**Timberman Race** – Tim presented an application he had received for Chairman Hatch's signature for approval of the Timberman race for 2010. They are requesting their permit

from the State, but need the Selectmen’s approval. A copy of the letter requesting permission has also been sent to Chief O’Brien. This approval would be for the entrants to ride their bikes in the break down lane of Route 106. Chairman Hatch signed the application.

**Bridges Update** – Tim had a report he had received from DOT regarding the status of the municipally- owned bridges in town. Tim said Hoyle Tanner, who had done the engineering on the River Road Bridge, had sent him an email informing him that we have three bridges that will eventually have to be replaced, and we should get on the State’s bridge replacement list. The bridges are on Stage Road over the brook, Stage Road over Nighthawk Hollow Brook, and Crystal Lake Road over Nelson Brook. Hoyle Tanner had sent him a draft letter for each bridge requesting that we be put on the list. He said when the State receives the application, they will give us an estimate of what the bridge should cost, what percentage the town would pay, and what percentage the state would pay. Tim informed the Selectmen that the applications had to be signed by the Selectmen, after which he would mail them to the state along with the letter of request. Tim said bridges are being estimated out as far as 2017, depending on the condition of the bridge.

**Rocky Pond – Milfoil Request** - Tim informed the Selectmen that we had received a request from the Rocky Pond Association for money for milfoil treatment at Rocky Pond. He said they didn’t specify an amount this year, and asked if we should put in \$500 again this year. The reason we give the money is so the State will give them a grant, which they can’t get if the town doesn’t support them.

**Health Insurance Programs** – Tammy Croft, Gilmanton’s LGC Account Representative met with the Selectmen to discuss health care options. Also present were department heads Fire Chief KG Lockwood, Police Chief Phil O’Brien, Recycling Manager Justin Leavitt and Town Clerk Deb Cornett.

Tammy explained how the LGC works in conjunction with other vendors to get the best rates they can for municipalities. She reviewed our current plan, and a couple of other plans that are available. Tammy also explained ways to keep our costs down by choosing options that would increase a member’s co-pay and deductibles. Increasing our co-pay on prescriptions was one major way it was felt the town would see savings. Tammy explained the differences with HMOs and POS plans.

It was agreed that the insurance should be discussed at the next department head meeting, which will be held on December 8<sup>th</sup>. After this meeting, Tammy will come in to explain the plans to the employees.

**8:30 p.m. – Break**

**8:34 p.m. – Back in session**

**8:35 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. Selectman Guarino seconded. Motion passed 3-0.

The Selectmen discussed code enforcement issues with Bob Flanders and KG Lockwood.

**9:40 p.m. – Out of Non-Public Session**

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

**9:41 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 with Chief Lockwood

**9:55 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 seal the minutes of the above two non-public sessions. Selectman Guarino seconded. Motion passed 3-0.**

**Safety Building** – Selectman Abbott stated that Chief Lockwood had taken her to see the Salisbury safety complex on Saturday, and they had been able to view the building inside and out. She said she has come to believe that this building would be the best fit for Gilmanton. It is a nice looking building, and has all the space requirements we would need, with just some reconfiguration of the space. Betty Ann said she had looked at metal buildings on the way to Salisbury, and hadn't seen one that was attractive. Selectman Abbott said they had met with Jim Mason, who had built the Salisbury building. She said Mr. Mason had told them how much it had cost to build the Salisbury building, and had given them an estimate of what he thought it might cost to build it today.

There was discussion about the safety building, and that this was the plan that the previous building committee had felt would be best suited to Gilmanton when they were looking at plans. The committee this year also felt this was the preferred plan.

We still have to wait to see if we receive any money from Homeland Security, but the Selectmen also discussed the cost of financing the building, by using the money that has been put into the capital reserve account for a building and bonding the remainder. It was felt that if we got the vote at town meeting, we would be able to go ahead by May. Don felt we would have ninety days to get the job started, if we got the grant. Selectman Abbott felt we should bring this plan forward at Town meeting either by grant or putting it out to bid. It was agreed that KG would get specs to put the job out to bid. All bidders would have to attend a pre-bid meeting on December 10<sup>th</sup> at 10:00 a.m. at the Academy Building. Bids would be due back by noon on December 31<sup>st</sup>.

**Tax Abatement** – Tim informed the Selectmen that he had been asked if the Selectmen would be willing to abate the taxes on the second issue bill for the building that the church has purchased for the food pantry/consignment shop. They have filed for a tax-exempt status. It was agreed to abate the taxes.

**Letter of Interest – HDC** – Tim said he had received a letter of interest to serve as a full member on the HDC from George Roberts, Jr. No one was certain if Ella Jo Regan had resigned her membership before she left on her trip. Tim will check with the HDC chair to see if Ella Jo had officially resigned.

**Security** – Tim said that at the LGC conference he had learned that one of the things the Department of Labor is looking for when they come into a place is security, mainly windows and solid doors. He said they are encouraging towns to institute some kind of protective glass or window for all personnel. Tim said Department of Labor is working with towns that don't have the funds to install these measures to see what they can do to beef up security. There was a brief discussion as to how this could be done in the Selectmen's Office and the Town Clerk's Office.

**Logging Tonnesen Property** – Tim had a copy of a letter that had been sent to Nanci Mitchell from Brian Cutter, the forester who had done a timber harvest on the Tonnesen property in response to a letter Nanci had sent him alleging trespass. The forester said he had walked the common boundary on the lots, and found no evidence of trespass. He said Nanci had flagged it and they had agreed on the location. He asked that Nanci show him where the alleged trespass occurred, and if she couldn't he wants her to send a letter to the Tonnesens stating that there was no trespass as part of the timber harvest on their property. He is concerned because this reflects badly on his ability and could lead to the loss of clients and jeopardize his license to practice forestry.

**Class VI Road** – Selectman Abbott asked if Tim had received any feedback on the email she had sent out regarding the Class VI issue. Tim said he hadn't received anything so far.

**Capital Reserve Computation Sheet** - Selectman Abbott distributed copies of the Capital Reserve Computation Sheet that Budget Chair Stan Bean wanted the selectmen to review and update. The Selectmen reviewed the items on the sheet, suggested a couple new items they felt should be added, and made a few changes to the amounts they felt should be put into some of the current accounts. Bridges and the compactor were among the changes.

**Approval of Minutes** – The Selectmen reviewed the minutes of last week’s meeting. Selectman Abbott moved to approve the minutes of November 16, 2009 as amended, which consisted of inserting a missing bracket on page four, changing the word “they” to “he” and deleting the repeated word “had”, also on page four. Selectman Guarino seconded.

**Information – Library Trustees** – Tim was asked if he had gotten the information to the library trustees about donations yet. Tim replied that he hadn’t. Selectman Abbott requested that it be done soon.

**Staff Support – Conservation Commission** – Tim was asked if he had spoken with anyone about providing staff support to the conservation commission. He said he hadn’t yet.

**Short-Term Disability Insurance** – Tim informed the Selectmen that maybe they should rethink the decision to do away with short-term disability, because the accrued sick time didn’t cover as much time as he had previously thought, so employees would have a gap between when their sick pay ran out, and long-term disability began.

**11:28 P.M. – MOTION – Selectman Abbott moved to adjourn the meeting. Selectman Guarino seconded. Motion passed 3-0.**

Respectfully submitted,

Lois Dionne  
Recording Clerk