



APPROVED

## Board of Selectmen Town of Gilmanton, New Hampshire

Meeting

November 6, 2014

**5:00 pm.** – Gilmanton Academy

**Present:** Chairman Brett Currier, Selectmen Donald Guarino and Stephen McCormack, Town Administrator Arthur Capello, Administrative Assistant Stephanie Fogg. Also present see attached attendance sign-in.

**5:00 pm** Chairman Currier opened the meeting, took attendance of those present and voting and led the Pledge of Allegiance.

### **PUBLIC HEARING – SOLICITATION ORDINANCE**

Chairman Currier said we will be taking input and questions from the public to a proposed ordinance from the Board Selectmen to not have solicitation of any funds in the roadways in Gilmanton. We want to keep it civil, we know there are people who are passionate about this one way or the other. We will listen to anyone who wants to speak. We are planning on an hour. Raise your hand and you can speak.

Ann Kirby asked Chairman Currier if he could read the ordinance please.

Arthur Capello handed out copies of the ordinance.

Paul Hempel asked Chairman Currier how this all came about?

Selectman Guarino said that the recent history on this, is that prior to the last Nascar Race, Israel Willard asked a question regarding the Fireman's Boot Drive, "if someone participating in the Boot Drive were to be hit by a car, where would the liability fall, onto the Town?" This is how it came about.

Carolyn Baldwin stated that this was not properly posted, it is the first time she has seen it, other than a draft that was circulated by e-mail, not by the Selectmen. Mrs. Baldwin said if the real issue is public safety, then go back to Town Counsel, redraft an ordinance that addresses the issue, properly post it. She would strongly suggest to go back to the drawing board.

Vinnie Biaochetti asked when was the last time the Selectmen talked to the Fireman's Association regarding this issue?

1 Chairman Currier said they had talked to the Fire Chief about it. Mr. Biaochetti said that the  
2 Chief is a member, not an officer of the Association. Mr. Biaochetti suggested that we drop this  
3 ordinance as it is and a member of the Board of Selectmen meet with the Association to establish  
4 a discussion about this.

5  
6 It was also mentioned that the meeting should not be held at 5:00 pm, it is not a good time for  
7 most people. Selectman Guarino said he apologized about the time and it would be considered at  
8 future Public Hearings.

9  
10 Selectmen McCormack asked what would be the recommendation if we continue the hearing to  
11 another time and date, what is preferred for a time, 7:00 pm?

12  
13 Deb Chase said that given that 7:00 pm is the regular public-input time for a Selectmen's  
14 Meeting, that she would recommend that this be carried forward after everyone has had a chance  
15 to speak to the issue.

16  
17 Chairman Currier said let's table this meeting, we probably got this wrong, we are not  
18 professional politicians, I'll take the heat as the Chairman. We will take the recommendation  
19 and meet with the officers of the Fireman's Association. We will come back and do it right, get  
20 all of the public input at a 7:00 pm meeting.

21  
22 **MOTION:** On a motion by Chairman Currier and seconded by Selectman Guarino it was voted  
23 unanimously to table the Public Hearing on the Solicitation Ordinance until a later date.

24  
25 Arthur Capello gave logistical information, if you table the hearing, then you have to motion to  
26 come off the table and then schedule another public hearing. If you continue with the public  
27 hearing you do not have to repost it, you can continue it up to two months away.

28  
29 Chairman Currier asked if the public wanted to continue discussing this tonight. Mr. Biaochetti  
30 said you have already tabled the hearing.

31  
32 Arthur Capello said make a motion to untable it then.

33  
34 Chairman Currier said we will have another meeting, after we have spoken with the Fireman's  
35 Association.

36  
37 **MOTION:** On a motion by Selectman Guarino, and seconded by Selectman McCormack it was  
38 voted unanimously to untable the Public Hearing on the Solicitation Ordinance and allow the  
39 people to speak to the issue tonight.(3-0).

40  
41 Selectman McCormack asked how many people would like to continue the meeting tonight,  
42 knowing that no decision will be made? The public, by a show of hands, had the majority vote to  
43 continue with public input/discussion this evening.

44  
45 Doug Isleib said what he sees going on is panhandling. It is the same thing that the Fireman's  
46 Association is doing now. The definition of panhandling is to approach strangers and beg for  
47 money or food, approach and/or beg from a stranger, US and Canadian to accost and beg from  
48 passer buyers on the street. I think that fits the picture pretty well. My contention is #1 liability

1 to the tax payers. The Fire Department may have insurance. To me it is the most ridiculous  
2 thing, that on race weekend, the busiest weekend of the year, that we would have people in the  
3 roadway asking for money from 90% strangers from out of Town. Years ago the Association  
4 would ask for donations door to door in Town, now they have a \$550,000 big budget a year, with  
5 all kinds of nice equipment and they are standing out in the roadway is an embarrassment to me.  
6 We the taxpayers are paying them for all of the equipment. The third issue is that we hear about  
7 where all of the money went. One person said they are paying for respirators. Isn't that  
8 interesting, is anything documented on how much money they take in on this drive? There are a  
9 lot of loose ends here. Going back to panhandling, it should apply to everyone, to the homeless  
10 and everybody else. It is ridiculous not to have a law that prevents it. Thank you.

11  
12 Harris Philpot, studies constitutional law and was first introduced to this issue through social  
13 media. He is not here to argue for or against, but to address issues as a tax payer/community you  
14 may want to consider. First and foremost, the Statue RSA NH 3191 specifically says the right to  
15 obtain permits for soliciting funds for general purposes. It allows permits, it does not allow for  
16 complete abolition against soliciting. Although there are several Towns in the State of NH that  
17 have created such statutes, it does not mean that they are constitutionally permissible, it just  
18 means they have not been challenged constitutionally.

19  
20 The ordinance that is written is vague and void for interview, arguably so. Underlying issue is  
21 policy, wanting to limit liability for the Town. However, liability is deferred based upon who  
22 regulates the roadways, route 140 and 107 are State Roads. As long as I have lived here, the  
23 only people I have seen "panhandling" or as I call it a Boot Drive, is the Fireman's Association.  
24 As a policy matter I would view the bigger picture of New Hampshire as a whole. In 2013 a  
25 group of 28 or so Fire Agencies raised \$236,000 for Muscular Dystrophy Association through  
26 Boot Drives. Now, if the underlying issue is safety, meaning we do not want our Fire Fighter's  
27 or our Boy Scouts in the middle of the road, ok. That is a reasonable argument. However, if you  
28 look at larger cities, with more traffic, they still conduct the boot drives and are willing to make  
29 this much money for a good cause. The final argument, is a Town in MA that faced the same  
30 issue. They created an application for a permit system, 30 days apply, what is your purpose,  
31 what are your precautionary measures, what is your organization, what are you trying to  
32 achieve? We are targeting the Fire Department, the people we basically charge with the public  
33 safety, going into buildings, can we not believe that they would be reasonably insuring our safety  
34 along a public way? Thank you very much.

35  
36 Vinni Biaochetti stated that the money that is raised goes back into the community. This year, in  
37 fact at the next meeting, because of the Boot Drive, we will be giving three AED's  
38 (Defibrillators), one to the dump, library and one to the Town Hall. We give money to the Boy  
39 Scouts and the Cub Scouts. We have been doing this since Nascar started, there have not been  
40 any accidents. They go to the Stop Sign, they are stopped. I understand that you do not like the  
41 Boot Drive. It is a way for us to give back. We used to raise money by the auction, the clam  
42 bake and the carnival but were losing money at each of those. The carnival relied on gambling,  
43 then it became an issue as we needed a permit to have gambling. The money goes back in to the  
44 Fire Station as well. In the past we have gone half on two ambulances, the current fire boat,  
45 forestry equipment all equipment that the Town does not have to buy. It is an easy way to make  
46 money and it is not considered panhandling.

1 Frank Gianni asked, if this ordinance is enacted, who will be enforcing it? Chairman Currier  
2 said the Police Department will enforce it.

3  
4 Stephen McCormack want it stated that he is not against the Boot Drive. I spoke with Glen  
5 Lines today. He said he is not necessarily against the Boot Drive, it is a safety issue for him and  
6 how it is conducted. Selectman McCormack said he is concerned with safety as well. As an  
7 Association, it is a private Association, how they spend their money is up to them. We have no  
8 business asking how they spend their money. We can ask, they could tell us, but we cannot force  
9 them to tell us.

10  
11 We did go to LGC, the response is attached and is part of the handout. Selectman Guarino said  
12 that he believes the Association Members do take care to not get hit. He just worries about a  
13 driver coming down the hill and not paying attention and/or pulling for their wallet and hits a  
14 care in front of them and then the car in front of them hits a firefighter. We are just trying to be  
15 fair about this and responsible to the Town as a whole in terms of the exposure. This is why we  
16 are looking at this. We are not trying to pick on the Fireman's Association.

17  
18 Selectman McCormack said correct me if I am wrong, Mr. Philpot, there are some forms that  
19 people can sign to waive liability for the Town, that really don't make any difference. Mr  
20 Philpot said yes that can happen, it depends on the ordinance. This Association has certain rights,  
21 and you have certain rights to protect the Town. You have to take a reasonable approach and  
22 there are a number of reasonable approaches. Maybe additional signage, additional outerwear  
23 etc. can help.

24  
25 John Funk said that I would expect that you could have a process, where someone would give  
26 notice, they would apply for a permit, and have the police department comment on a location. It  
27 is a legitimate concern for the Town to look at, legitimate for the Town to come up with  
28 reasonable guidelines for making certain that this is regulated in a way that makes sense and  
29 doesn't impose undue safety to people. Mr. Funk agrees with the comment that just to prohibit  
30 the boot drive, is going to create some legal issue for you. He said it is sensible to study it and  
31 come up with something that is reasonable, that we can all take a look at and give equal  
32 opportunity to comment.

33  
34 Mr. Bauman said that he would not be here today if the defibrillator was not in the back of the  
35 Police Car. The Town did not buy that defibrilator, I am in favor of the boot drive. I agree with  
36 the lawyer here that maybe there should be a permit.

37  
38 Glen Lines said he has been in Town 68 years. He spoke earlier today with Selectman  
39 McCormack and Selectman Guarino, who stands on the yellow line? That is crazy thinking.  
40 They have a good organization and good fire fighters, why would they put them on the yellow  
41 line? They have to go into burning buildings, that is their job. They have given me and my wife  
42 rides to the hospital, they are a good department. Just like the Police Department and the  
43 Highway Department. They have been in the roads. It isn't whether it has happened yet, it will  
44 happen! Then everyone is sad. Insurance increases, litigation. This isn't Sherwood Forest. We  
45 are not Robin Hood. If you want to go to the race track go to the race track. We have Town  
46 people who pay tax dollars and also give out of their pockets on all kinds of charities, heavily.  
47 There are other ways to get money, but don't exploit from people driving through Town and  
48 don't stand on the yellow line!

1 Just one more comment was that the Boot Drive was started over 20 years ago and it was  
2 approved by the Selectmen and approved by District III and the Police Department. All three  
3 agencies approved of it being there.

4  
5 Mr. Sisti said that we have time to relax and study this. He would like to address the history of  
6 this, his wife did a google search and the boot drives have been going on in the United States for  
7 ever. In fact it doesn't cheapen Towns. A lot of Towns are very proud of it, they raise money  
8 for Muscular Dystrophy and other good causes. If the question is a safety issue, I agree with  
9 John Funk, that is a legitimate issue. Warning before you get to the intersection, etc., that can be  
10 addressed. If you do your research, it happens all over the United States. It has come to be  
11 expected as a way in which fire departments raise funds. The first time I saw it here, I thought  
12 nothing of it. They are legitimate, traditional way in which fire departments raise funds.

13  
14 We should address the safety issue, we have a lot of time, let's step back, have the Police  
15 Department take a look at it. As a Town Moderator, don't put this on a petition. This is not a  
16 big deal, let's focus on the important things. Mr. Sisti said the Selectmen should organize this,  
17 do it with understanding and take on the responsibility. Tonight was good. We should do it  
18 again in a couple of months after the Police have had a chance to look at it. That's all I am  
19 asking.

20  
21 Chairman Currier asked if there were any other comments? Thank you for your input.

22  
23 PUBLIC HEARING WAS CLOSED.

24  
25 6:10 pm Chairman Currier reopened the Selectmen's Meeting.

26  
27 **Salary Increases – Warrant Article -**

28 The Selectmen asked Arthur Capello to run the numbers for a pay raise for the employees at  
29 1.5% to the base.

30  
31 Chairman Currier said that the Town needs to keep track of the cost of the benefits packages  
32 paid. I know everyone wants a raise, and I know you can't eat a medical benefit, or a dental  
33 benefit. But what happens is the people who don't work for the Town, they don't get a benefit  
34 package that keeps on going. The tax payer is absolutely on the line for those increases.

35  
36 Chairman Currier said if an employee gets a \$20,000 benefits package, the employee is  
37 responsible for 20% of that package. (\$4,000), That package goes to \$22,000, now he is  
38 responsible for \$4,400, that is a \$1,600 raise to this employee. An increase in pay, not matter  
39 how you look at it. We do not have a number, what each employee receives in a benefits  
40 package. What will eventually happen, if these numbers keep increasing for insurance than the  
41 percentages are going to have to change. The Board needs to keep tabs on these benefits  
42 packages, at some point down the road, employees may have to kick in more.

43  
44 **6:25 pm Executive Budget** – Arthur Capello said that the budget will increase by \$17,333.00,  
45 because of the added coverage for his insurance.

46  
47 Computer maintenance agreement is included in this budget. Selectman McCormack asked  
48 where the back up for the computer information goes, Arthur Capello said, I believe it goes to



1 the Cloud. CCRS our tech company takes care of that. Is there liability if information is lost?  
2 Arthur Capello said I believe there is, but I will check into that. Arthur said there is a large  
3 increase in the Office Supply number, but I have included all of the office supply lines into one,  
4 Zoning, Planning etc. \$3,800 of the Dues and Memberships is for the LGC.

5 Chairman Currier said where is all of the mileage going? Arthur Capello said that is for myself  
6 going to meetings, Stephanie to the Bank (which does not happen very often). (.56 per mile)  
7

8 General Government Buildings - \$10,000 in Capital Outlay Line to have the Academy Building  
9 Painted. (Exterior) They used to paint one side per year. Building Repairs and Maintenance line  
10 \$10,000 already. Selectmen are agents to expend. Chairman Currier said lets get some quotes  
11 on painting. Arthur Capello will get some bids before Spring.  
12

13 **Draft Warrant Articles** –Attached in office.  
14

15 Chairman Currier said the Forestry Truck is a concern to me. The fund for the Forestry Truck  
16 was originally for replacement of the Forestry 1 Vehicle. Arthur Capello said that I know for a  
17 fact it is to purchase a second vehicle, for one at the Corners. Chairman Currier said he is not in  
18 favor of purchasing a second truck, he believes the Town is good with one Forestry Truck. It  
19 would allow us to go out of Town more, because we have more apparatus, he does not find that a  
20 benefit to the tax payer.  
21

22 **Metrocast** – Arthur Capello said the e-mail response to the issue of not having service on one of  
23 the roads. This proposal will take the service up to 98% in Gilmanton. The Selectmen are still  
24 looking into the proposal.  
25

26 **Parks and Recreation:**

27 **MOTION:** On a Motion by Chairman Currier and seconded by Selectman Guarino voted  
28 unanimously to reappoint Robert Burdett to Parks and Recreation Committee for another term at  
29 6:55 pm.(3-0).  
30

31 **Solid Waste** – Arthur Capello said he has the response from Casella, that they are not willing to  
32 change the wording into what they wanted.  
33

34 **MOTION:** On a Motion by Selectman Guarino and seconded by Selectman McCormack voted  
35 unanimously to put the Municipal Solid Waste removal out to bid at 7:00 pm.(3-0)  
36

37 Arthur Capello will put the Solid Waste Removal out to bid again.  
38

39 **Fire Department** - Arthur Capello brought forward another application for the EMT-A  
40 position.  
41

42 **Auction - Next Saturday** - Arthur Capello said that the Conservation Commission is  
43 concerned that the Town is auctioning off the Deer Drive piece, they believe it should be  
44 reviewed because of the confusion about the piece. The Selectmen read Nancy Mitchell's letter.  
45 See attached in the Selectmen's Office. As well as three e-mails from concerned citizens.  
46

47 Chairman Currier and Selectman McCormack by consensus, chose to continue with the sale of  
48 the property.

Selectman McCormack said there needs to be permits, event forms etc. be on the website.  
Arthur Capello said we can scan those and get them onto the web.

**6:30 pm Public-Input Opened**, Chairman Currier opened public input.

**Selectmen's Office Reorganization -**

How are we going for posting new positions? Arthur Capello said the job posting for the Assessing Clerk/Building Dept. went to every Department Head and employees. To be posted internally for one week. Arthur Capello is still working on the Financial Job Description.

**Election –**

Selectman Currier said he was disappointed with how things went for the Selectmen and how they were spaced in the building. He feels it was intentional by Selectman McCormack. Chairman Currier said he is not going to have it happen again that one Selectman would sit in one spot all day. Selectman McCormack agreed the Selectmen should rotate in and out of the front door position. He did not like being there all day either.

**7:00 pm Public- Input Closed**, Chairman Currier closed public input.

**Approval Meeting Minutes:**

**MOTION:** On a Motion by Selectman Guarino and seconded by Selectman McCormack it was voted unanimously to approve non-public minutes of October 28, 2014 at 7:28 pm (3-0).

**(A)Non-Public Session per RSA 91-A:3, II (c):**

**MOTION:** On a Motion by Selectman Guarino, and seconded by Selectman McCormack it was voted unanimously to go into Non-Public Session per RSA 91-A:3, II (c) at 7:30 pm. (3-0 Voice Vote – Chairman Currier-yes, Selectman Guarino– yes, Selectman McCormack– yes).

The meeting room was closed to the public. Present during the Non-Public Session were Chairman Currier, Selectmen Guarino and McCormack. Town Administrator Arthur Capello, Administrative Assistant Stephanie Fogg.

A member of the Budget Committee brought information to Chairman Currier's attention. Arthur Capello will follow through with investigating the comments and report back to the Selectmen.

**MOTION:** On a Motion by Selectman Guarino and seconded by Selectman McCormack it was voted unanimously to seal the minutes until the investigation is resolved at 7:40 pm. (3-0 Voice Vote – Chairman Currier -yes, Selectman Guarino – yes, Selectman McCormack – yes).

**MOTION:** On a Motion by Selectman Guarino and seconded by Selectman McCormack it was voted unanimously to come out of Non-Public Session at 7:41 pm. (3-0 Voice Vote – Chairman Currier -yes, Selectman Guarino – yes, Selectman McCormack – yes).

The meeting room was opened to the public. The Board noted the Non-Public Session minutes were sealed.

1  
2 **Adjournment:** On a motion by Selectmen Guarino, seconded by Selectman McCormack it was  
3 voted unanimously to adjourn at 7:42 pm. (3-0)  
4

5 Respectfully Submitted,  
6  
7

8 \_\_\_\_\_  
9 Stephanie S. Fogg  
10 Administrative Assistant  
11  
12

13 **Approved by the Board of Selectmen**  
14

15 \_\_\_\_\_  
16 Chairman Brett A. Currier  
17

18 \_\_\_\_\_  
19 Selectman Donald J. Guarino  
20

21 \_\_\_\_\_  
22 Selectman Stephen J. McCormack