

**APPROVED**

**Board of Selectmen  
24 August 2009  
Minutes**

**6:00 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. Also in attendance was Town Counsel Walter Mitchell.

**6:01 p.m.** – The Selectmen’s meeting was suspended to confer with Town Counsel.

**6:45 p.m.** – Resumed regular meeting.

**Chief O’Brien – Police Department Update**

**Town Ordinances** – Chief O’Brien stated that they had started working on town ordinances to establish a “fine” schedule; he feels that town ordinances, overall, are pretty old. Phil said that at the next department head meeting, he would like to approach the department heads about going through the ordinance book, and have each department update the ordinances that pertain to their department.

**Rtes 140 & 107 Intersection** – Chief O’Brien reported that he had gotten information about the number of accidents at the intersection of Rte 140 & 107, as had been requested by the Selectmen. There have been twenty-two accidents there over the past five years, four in the past couple of months. Phil gave the Selectmen the name of a contact person at DOT for district three that he had spoken to at the NASCAR meeting. Phil said DOT should look into the issue to determine what would be best for the intersection.

**Chain of Command** – Chief O’Brien requested that when the Selectmen have issues to discuss where the police department is involved that they go directly to him, not his secretary or officers. He said this way things would go through the proper chain of command, which it didn’t in a couple of instances in the past couple of months.

Chairman Hatch asked if that goes both ways. Does the police department staff have to go through the Chief before talking to the Board of Selectmen. Chief O’Brien replied that they do.

**Budget** – Phil reported that he had spent about 67% of his budget; not all of his revenue is in. He felt he is on track with the budget.

**7:00 p.m. – Public Input** – Present for public input were Bill & Terry Donovan, Mary Ann Morrill, Mike Workman, Amy Russell, Tom Farley and Justin Leavitt.

**4<sup>th</sup> July Barrels** – Mr. Willard stated that he is tired of looking at the 4<sup>th</sup> of July barrels, and asked why they are still there (outside the Academy). He said when he was on the 4<sup>th</sup> of July committee, the barrels were always removed the following day. Tim Warren said it is his understanding that no one wants to store the barrels any more. He said they have talked about storing them at the highway garage, but the problem is getting them down there. After a brief discussion, Chief O'Brien said he would talk with the road agent about getting the barrels to the highway shed.

**Class VI Road** - Mr. Willard said he would like to see some sort of fine instituted for anyone who works on a class VI road without permission from the Selectmen. Chairman Hatch asked if Mr. Willard knew for a fact that someone was working on a class VI road. Mr. Willard replied that he did. He said he had reported it to the building inspector, who went and checked it out, but that was as far as it went because three years ago the person had been given permission to work on the other end of the road. Mr. Willard added that the Selectmen probably would have given the individual permission, but the fact is, the person went ahead without permission, and it should be set up that a person would be fined if they did the work without permission. Tim Warren said that Mr. Willard was referencing the work Brett Currier did to fill in ruts on Mary Butler Lane that trucks made going in and out of Mary Butler Lane; he put gravel down to fill in the ruts. Mr. Willard said he would like to see a fine set up as a deterrent to stop people working on class VI roads without permission.

**New Police Station** – Israel Willard asked what is being done regarding a new police station. He said the Selectmen seem to be “hanging their hat” on getting stimulus money, but asked why they aren’t preparing the site.

He was told no money had been allocated for site work this year. Israel responded that he knew the Selectmen didn’t like the idea of volunteers, but he felt the lot could be cleaned and stumped by volunteers. When asked why he felt the Selectmen didn’t like volunteers, he replied that every time he had mentioned volunteer work, they had turned it down, i.e. the recycling center. The Selectmen felt that was a different situation, because volunteers would have to go through training, but they aren’t against volunteers. They said no volunteers had approached them to clear the site, but said if Mr. Willard could get volunteers they would be happy to have it done.

Tom Farley asked if there is a plan for a building.

Chief O'Brien said we had a plan from the building that was built in Salisbury; his only concern is that we need to be “shovel ready” to get a grant. He felt if the site were cleared and stumped, it would then be “shovel ready”.

Mr. Willard will come back to the Selectmen with something specific.

**Donovan Road Drainage** – Mr. Donovan stated that in May Mrs. Morrill had asked the Selectmen for permission to cut trees on Donovan Road that were on their bank. He said Mrs. Morrill had called his wife, who gave her permission to cut one birch tree that was leaning over the road, but not to cut anything else. Mr. Donovan said when they came back from vacation Thursday, a clump of trees was gone; he had photos of the area.

Mike Workman said he is the contractor doing work on Donovan Road for the Morrills, and they hadn't taken down any trees on the Donovan's side of the road. He said he had cut three trees on the Morrill's side of the road that were in the ditch line. Mr. Workman and Mrs. Morrill said nothing was touched on the Donovan's side of the road.

Mrs. Donovan said if you stand on their porch and look down, you could see the hole where the trees had been. Mrs. Morrill said her husband had cut trees on their side of the road, and this might be why the Donovans could see through, but they hadn't cut anything on the Donovan's side of the road. The Donovans maintained that three additional trees had been taken down on their property while they were on vacation.

The pictures were reviewed and discussed. It was stated that the Morrills had wanted to cut down the trees to avoid moving a utility pole; the pole has been moved. Mr. Workman said he was there early in the spring, and he is only aware of one birch tree that was in the way. Mr. Donovan asked if Mr. Morrill could have cut the trees without Mr. Workman or Mrs. Morrill being aware of it. Mrs. Morrill said that Mr. Morrill hadn't cut anything.

Chairman Hatch said they weren't going to have a debate about who cut the trees. Don said he would visit the site.

Israel stated that on Thursday night he was out there on a site review with the wetlands people, and was concerned that there was no representation from the Town. He asked who is overseeing this job. Chairman Hatch said the road agent is supposed to be overseeing this project. Israel said he is concerned about the culvert because Mr. Workman doesn't intend to follow the plan to put the culvert in on the Morrills' side; they are going to put water bars to divert water into the culvert. He said the engineer who designed the culvert wasn't planning on water being diverted from the other side of the road, he was counting on the 15" culvert that was to be installed on the Morrills' side, and if that isn't done, it changes the water flow of the culvert.

Don said he had been in discussion with Mr. Workman about the plan. He drew a diagram and explained the work that is being proposed. Don added that Mr. Willard had called him expressing concern that water from the downstream side of the property was being changed to the upstream side, and was concerned that the capacity would be too much for the culvert. He said the Selectmen had talked to Town Counsel about it when

he was here earlier. Don said we need to have an engineer look at it, and if the culvert can handle the diversion of the water, the town has the authority to approve the change to the plan. Don added that they don't have enough information to make the decision at this time.

Chairman Hatch said the Selectmen had mediated this, and come up with a plan and asked what was wrong with the original plan. She asked how this plan would be better for both the Morrills and the Donovans.

Mr. Workman had diagrams of the original plan and the proposed plan that he reviewed, and explained the proposed changes. He felt the original plan had a couple of complications that hadn't been anticipated. The main issue was the ditch line.

Selectman Guarino said he had spoken with the Road Agent and that Paul had felt the new plan was a good idea because of the ditch line. Don said he had spoken with LGC to be sure the Town has the authority to put a culvert across the road; we do as long as we aren't dumping a large amount of water toward someone's home.

Chairman Hatch asked if the Donovan's had been informed of the proposed change. Don said the culvert would affect the Kelly property, not the Donovans. He said they need to address the engineering of the culvert.

Chairman Hatch asked what the Donovans' concern was regarding the proposed change. Mr. Donovan asked who had come up with the original design. Don said they had been trying to come up with something reasonable in terms of a turn around for fire trucks; they aren't engineers.

Mrs. Donovan noted that the water bars and ditch lines had been put there during the permitting process. She said the Town, in good faith with the Morrills, after many years of litigation, had come to a resolution. A stipulation which included, in part, a plan and a specification that was subject to public hearing, where people had a chance for comments and for experts to approve the plan. Mrs. Donovan suggested that when the Selectmen sign something, they should think of the consequences of what they are doing. She said there is a court order, and there is a plan, and they are relying on that. She said there comes a point where you have to move on; it is the anxiety of knowing changes are going to be made, and how they are going to be made, the "cat and mouse" and what the process is for doing that? She said it always seems to be adversarial when you figure something out, and you pounce. Mrs. Donovan asked that they (Selectmen) come up with a process other than one-on-one with the contractor out on the road making these changes, so people can offer input. She said she wasn't questioning the Selectmen's authority; it is a question of what is right, fair and reasonable.

Chairman Hatch asked if Mrs. Donovan felt they hadn't been adequately noticed about something that might indirectly affect their property. Mrs. Donovan said she relies on

what the Selectmen signed, and when it says they are going to set the right hand side of the road, now it is all “water over the dam” after the fact, and she doesn’t want to come back next week to see something different. She added that as far as the culvert, in May the Selectmen said there is a permitting process, and we rely on the expertise of the State, and that is going to happen. She said they (Donovans) also cooperated with the wetland scientist who came on their property; it was in everybody’s interest to see the whole picture; he assured them he would forward them a copy of the plan when it was done, and they would get notification when they applied for a permit to the State. She said they came back Thursday, and tried to find out if an application had been filed, and if a permit had been granted; again after the fact. Mrs. Donovan said she had talked with the State, and the wetlands scientist had been told he could not provide them with a copy of the plan. She said she has notified the State that for lack of reasonable notice to them, an opportunity of input to them, and until they are convinced otherwise and shown a plan, they (Donovans) have put them (State) on notice to the extent this project impacts their property or is on their property line, they are not giving permission as abutters and property owners. Mrs. Donovan handed the Selectmen a copy of what she had filed with the State.

Mrs. Donovan said members of the public rely on what the Selectmen do as a body, and it is distressing to see things change without notice, and she doesn’t have sympathy for the significant change after the very difficult years it took to get to that point of stipulation. She added that she doesn’t know who to “bother” any more with their concerns, and that is what she feels they are doing.

Chairman Hatch wanted it known that she had asked the Donovans to come in tonight because she had spoken with the Donovans and she wanted them to share their concerns with the whole board.

Mr. Willard stated that Rte 140, where there had been a definite ditch line, had been washed out three times, and the State realized that wasn’t working, so they have put culverts across 140 in three places to divert the water from that ditch line to prevent it from washing out, so he disagreed with the explanation of Selectman Guarino and Mr. Workman about the change to the plan.

Mr. Willard felt that Dave Clairmont, who had considerable experience working on roads, had been one of the persons who had come up with the original plan. He also said that Mr. Workman had changed the gravel from bank run to rip rap, and is putting a coat of approximately 2” of ledge pack in the center.

Mr. Workman said he is not finished with the job, so the 1 ½” on the top is not a finished layer; he is laying it down in thin layers so it gets compacted as they go along. He said what the plan calls for is 6” minus, or the equivalent; what he is using is 6” ledge crush, which is equivalent or superior to 6” minus.

After more discussion, it was agreed that the Selectmen would set a date to do a site walk, and ask the road agent to join them. They will notify the Morrills and the Donovans when they have set a date.

**Thermal Scan** – Energy Committee Chair Amy Russell had said she thought other members of the energy committee would be here tonight. They wanted to discuss the proposal Paul Callahan had given them for an energy audit for the Academy Building. Ms. Russell informed the Selectmen that the Energy Committee is applying for information for grants. Chairman Hatch asked that the Energy Committee be put on the agenda for a future meeting; she felt the time the issue would require should be a scheduled agenda item rather than being discussed at public input.

Ms. Russell also asked that Paul Callahan be appointed as a member of the Energy Committee.

**7:44 p.m.** - Chairman Hatch closed public input.

**7:45 p.m. – Recess**

**7:50 p.m. – Back in Session**

**Approval of Minutes** – The Selectmen reviewed the minutes of August 10, 2009.

**Motion - Selectman Abbott moved to accept the minutes of August 10, 2009 as amended. Chairman Hatch seconded. Selectman Guarino did not vote, as he was not present at the meeting.**

### **FYIs & Other Business**

**Speeding – Crystal Lake Road** – Tim read an email from Paige Totman of Crystal Lake Road into the minutes (copy attached). She was concerned because a young girl, while walking on Crystal Lake Road, had been hit by a car. Ms. Totman was also concerned about speeding and the lack of enforcement of the speed limit on the road.

Chief O'Brien, who was still present at the meeting, said the girl's head had not dented the hood of the van, as was stated in the email, and the driver of the van was not speeding. He said the only explanation they could come up with for the accident was that the driver was used to driving a small car, and this was a full-size van, and it was felt she had miscalculated how close she was to the girl.

There was a brief discussion during which it was stated that most of the traffic problems on Crystal Lake Road come from campers going to and from Hidden Valley. Chairman Hatch felt we should ask the Boy Scouts to pay for police weekend details during the

summer to control the traffic. She asked Tim to arrange a meeting with the Scouts to discuss the issue.

**Recycling Bins** – Justin Leavitt reported that he has his two new bins, and the one for tin and steel is being used. He said the one for paper is all set, and will be officially opened for use on September 1<sup>st</sup>; a sign has been posted, and he has been explaining the change to the residents.

**New Fence** - Justin informed the Selectmen that the new fence had been installed at the center.

**Recycling Income** – Justin said the prices we get for recyclables has been going up with the exception of plastics. He added that the aluminum pile would be put out to bid one more time this year.

**Roof – Glass Bin** – Justin said the roof is being put up over the glass bin; he expects the project will be completed by the end of the week.

**GAT** – Tim reported that the tonnage sent to Penacook is 133.33 tons year to date, down 58 tons from 2008.

**Waste-Oil Furnace** – Justin informed the Selectmen that there is a gentleman in the Sawyer Lake area who has a waste-oil furnace (Stainless 2000) for sale. The furnace is 6-7 years old, but has been upgraded every year something new came out for it. He felt the asking price was reasonable (\$2,000), plus it comes loaded with fuel. Justin said he had been talking with Tim about seeing if we could get a grant through DES to cover at least part of it.

Tom Farley asked if the Recycling Facility generated enough oil to run it. Justin replied that they did.

After a brief discussion, Justin was asked to see if the gentleman would be willing to hold the furnace until next budget season. Tim will speak with the gentleman.

**Inspection – Transfer Station** – Tim had a letter from DES stating that they had conducted an inspection of the transfer station on June 19<sup>th</sup>, and believe the facility is well managed. There are a couple of things that need to be done such as posting the permit number at the facility, and relocating the compost pile farther from the burn area.

**Year-Round-Library** – Tim had a letter from the Year-Round Library Association inviting the Selectmen to the grand opening of the Library on Saturday, September 12, 2009 at 2p.m. and to participate in the program by making some remarks.

The Selectmen are going to try to attend the opening, but didn't feel they could commit to being part of the program. Tim will notify the Year-Round-Library Committee.

**Eagle Scout Project** – Hunter Rowley a member of Boy Scout Troop 242 is assembling and erecting a sign for the Meeting House Cemetery as part of his Eagle Scout Project. The Historic District Commission has approved his project. He is requesting that any fees connected with this project be waived. After a brief discussion, the Board agreed to waive the fee.

**MOTION – Selectman Guarino moved to waive any town fee connected with Hunter Rowley assembling and erecting a sign at the Meeting House Cemetery. Selectman Abbott seconded. Motion passed 3-0.**

**Belknap County Commissioner's - Public Hearing** – Tim informed the Selectmen that the Belknap County Commissioners will hold a public hearing on Tuesday, August 25<sup>th</sup> at 7:00 p.m. to consider a supplemental budget appropriation of \$30,818.50. This amount represents the receipt and expenditure of Assistance Grant funds, which have been awarded the County.

**High-resolution Aerial Photography** – Tim had a letter from the Bureau of Transportation Planning and Community Assistance informing towns that the NH Department of Transportation is coordinating and collecting imagery for high-resolution aerial photography for the State.

Municipalities can “buy up” to higher resolution for their jurisdiction by covering the incremental costs.

There was a brief discussion during which it was stated that Gilmanton had received high-resolution aerial photographs when the Town was remapped a couple of years ago, so there is no need to expend money for this project.

**Letter – Use of Mary Butler Lane** - Tim had a letter from Michael & Yvette Gordon, who purchased property at 30 Allens Mill Road. The property had an existing house, and had used Mary Butler Lane as its driveway. They asked permission to continue using Mary Butler Lane as their driveway.

Because the property has access on a Class V road, a discussion ensued as to whether access could be allowed from Mary Butler Lane. Tim will call LGC.

**Cut Wood – Sawyer Lake Area** – Tim said there is an individual in the Sawyer Lake Area who had 8 truckloads of logs being cut up and stacked for firewood. He said there is concern because the stacks of wood are so high, and also of concern is the fact that the person starts sawing early in the morning. Tim said the brother-in-law of the property owner had cleared a lot and brought the wood there; the property owner doesn't burn



wood. This is supposed to be a one-time occurrence, but there was concern about the height of the stacks, and if the property owner would be required to remove the wood.

Chairman Hatch said she had spoken with the property owner, and was told everything would be cleaned up before winter. After a brief discussion, the Selectmen agreed that the property owner should have a deadline of Thanksgiving to have the wood removed, and they shouldn't use their saws before 8:00 a.m.

**Wilkens - Appeal – Administrative Decision** – Tim said the ZBA Chair had asked about the Wilkens' Appeal of Administrative Decision. He said the ZBA is to have a site walk next month and the Wilkens want to have an independent building inspector determine whether a building permit should have been issued to work on the barn in question. He said Mr. Wilkens felt the Town should go on line to the State's Building Code Review Board to get someone so we could get an independent, unbiased opinion.

Selectman Abbott was concerned about giving into residents demands when they, as homeowners or abutters, disagree with an official decision. Chairman Hatch felt another opinion might be a good idea, but was worried about setting precedent, and was fearful if they did that, everything would start being questioned. Selectman Guarino agreed; he felt no matter how Bob rules on an issue, everyone would start nitpicking, especially if they didn't like their neighbor. Who should pay for an independent opinion was also of concern.

After further discussion, the Selectmen agreed that if a person requested a third-party opinion, the person requesting the opinion should pay for it; the Town should stand behind their building inspector.

**Henderson – Appeal Administrative Decision** – Tim said the ZBA Chair had also asked permission to speak with Town Counsel regarding the request for a rehearing pertaining to the Henderson's Appeal of Administrative Decision.

After a brief discussion, it was decided that the ZBA should contact LGC before speaking with Town Counsel.

**Smoke Detector** – Selectman Abbott asked if Tim had gotten any information about the need for a hard-wired smoke detector in what was alleged to be an illegal apartment.

Tim replied that the apartment was a legal apartment, and because it is a legal apartment, Chief Lockwood said he has no authority to enter the building to inspect without a written request from the occupant of the apartment.

**Conservation – Public Hearing?** – Selectman Abbott asked if Tim had found out whether the Conservation Commission had to have a public hearing to spend money for

the survey of the property they wish to get for a conservation easement. Tim replied that he and Nanci Mitchell had researched the RSAs, and no hearing is necessary.

**Electrical Work – Crystal Lake Park** – Selectman Abbott asked if Tim had found out if the estimate they had seen for the electric work at Crystal Lake Park was the lowest price. Tim replied that it was the best price.

**Personnel Policy Change**- Selectman Abbott asked if the change they had adopted to the personnel policy had been made. Tim replied that it has been made, but has not been sent to the employees yet.

**Lakes Region Planning Commission Meeting** - Chairman Hatch reported that she and Chief Lockwood had attended the “follow up” meeting of the Lakes Region Planning Commission; it was not as well attended as hoped.

Chairman Hatch felt something positive had come from the meeting, as Belmont is trying to get the surrounding towns to meet to try to consolidate the needs of the area. Rachel said she would like to represent Gilmanton at any meeting that is held.

**9:18 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.

**9:20 p.m. – Out of Non-Public Session**

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

**9:21 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.

**9:31 p.m. – Out of Non-Public Session**

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

**08-24-09 BOS**

**APPROVED**

**MOTION – Selectman Abbott moved to accept Steven Hartford’s resignation as an employee at the Recycling Center. Selectman Guarino seconded. Motion passed 3-0.**

**9:32 p.m. – MOTION – Selectman Abbott moved to adjourn the meeting. Selectman Guarino seconded. Motion passed 3-0.**

Respectfully submitted,

Lois Dionne  
Recording Clerk

**Tim Warren**

**From:** Paige Totman [paige.totman@hotmail.com]  
**Sent:** Monday, August 17, 2009 7:15 AM  
**To:** selectman@gilmantonnh.org  
**Subject:** Crystal Lake Road  
**Importance:** High

Dear Selectmen,  
At the beginning of August, a little 12 year old girl was hit by a car walking to the recreation area on Crystal Lake Road. The road, at the area she was hit, is posted 25 miles per hour. The impact was so hard, the little girl's head dented the van's hood. The injuries and damage is obvious that the van was driving over the 25 mile per hour speed limit. That being stated...Crystal Lake Road, from Route 140 to the Crystal Lake Dam is posted at 35 miles per hour. That is a higher speed limit than Elm Street AND the same speed limit as sections of Route 140! That does not make sense.

I called and spoke to Selectman Guarino. He stated that he would discuss it with the police department and at the next Selectman's meeting (August 10). The minutes of that meeting show no evidence of this matter being discussed. I was also greeted at 6am this morning by DOT workmen as they "hot-top" Crystal Lake Road from RT140 to the dam. Hot topping the road only invites drivers to increase their speed on a new flat surface! Not only does Crystal Lake Road have more traffic than it can handle driving it, the speed and lack of enforcement of speed is a major issue. For local families to now not allow their children to walk to the playground for fear they may get hit, is NOT RIGHT. For an adult to take their life in their hands when they walk their dog is NOT RIGHT. Crystal Lake Road has too many children, families with dogs, bike riders, etc for a road that does not have an enforced speed limit! School will be open soon and more children will be out and about.

When will this issue be addressed seriously? When will speed be enforced (with tickets and fines and not just warnings)? When will our concerns be looked like as an issue? What happens if another child gets hit by a vehicle on Crystal Lake Road?

**Paige Totman**  
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Phone: 603-556-7891

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