

APPROVED

**Board of Selectmen
28 September 2009
Minutes**

5:30 p.m. - Select board Chair Rachel Hatch and Selectman Betty Ann Abbott, Town Administrator Tim Warren and Clerk Lois Dionne met with Desiree Tumas to formally present her with an offertory letter for the position of planning board clerk, and to finalize the terms of her employment.

6:00 p.m. – Selectman Guarino joined the meeting for the scheduled Selectmen’s meeting.

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

Planner – The Selectmen met with Mark Fougere to discuss the possibility of hiring him as a contract planner.

Mark has his own planning and development company, Fougere Planning and Development. He worked as a planner for Milford, NH for six years, and for the city of Nashua for five years. In these positions he worked with the conservation commission, the zoning board, worked on the CIP and the Master Plan, and impact fees, and also got grants.

Mark worked for a development company, building assisted living units, and has worked for an engineering company. He has been on his own for the past seven or eight years.

Mark has also helped out various towns as a temporary planner, including Laconia, Hampton, and Somersworth. He currently works as a planner for Hollis one day a week, and for Henniker one and one half days a week.

There was further discussion of Mr. Fougere’s work experience and a brief discussion on the needs of the planning board, and that it was felt that the goal of the planning board is to have Desiree trained to do the job of clerk and planning administrator, as has been the practice in the past. Mr. Fougere agreed that he would be willing to work on an as-needed contract basis, if the Town should decide to hire him. It was felt he would probably be needed a couple of days a month. Mr. Fougere was agreeable to meeting with the Selectmen and members of the planning board to discuss their needs.

Henderson's ZBA Case – Chairman Hatch asked if we were ready to bring Town Counsel in to discuss the Henderson case; she said she knew we were to do a letter to the ZBA. Selectman Guarino said he had spoken with Annette, ZBA clerk, and she had told him the ZBA had handled the case the way it was supposed to have been handled. Tim felt the additional letter from the State had not come with the attorney's letter, so it had not been submitted with the application for the rehearing.

Don said he had asked Annette when they had received the letter, because he got the impression that everything that had been in the packet from the attorney had been allowed. Selectman Abbott asked if they (ZBA) had the letter when they had been asked to have the rehearing. Don said he was told there has to be new evidence to have a rehearing; the ZBA didn't have the letter in time to address it. Selectman Abbott asked if the Henderson's could ask for a rehearing. Selectman Guarino asked Tim to find out the date the letter had been submitted to the ZBA.

Donal Smith – Culvert Issue – Mr. & Mrs. Smith were present to discuss a culvert on Manning Lake Road. Mr. Smith stated that the culvert had been moved sometime between 1990 and 1995. He said it had been moved to the edge of the boundary of his property, and it now floods the whole area; it is a breeding ground for mosquitoes.

Mr. Smith said he had been transferred to Georgia, so nobody had lived there for about twenty years; it is a year-round residence. Mr. Smith said he had the road agent, Paul Perkins, look at it last spring when the water was really flowing through the culvert. He said Paul had told him that he couldn't do anything about it.

Mr. Smith felt this was a situation caused by the action of the town, the moving of the culvert. Selectman Guarino stated that we had a similar situation this year, and the town had offered to provide the culvert at the Town's cost, but the landowner had to pay a contractor to install it, as the road agent is not allowed to do work on private property.

Selectman Guarino said he had spoken with LGC today, and was told that the town has the right of easement by prescription to place a culvert to enable them to move water off their roads.

There was further discussion during which it was stated the culvert had been moved by a prior road agent, and the present Board of Selectmen doesn't have any information as to why it was moved. The Selectmen reiterated the offer to have the road agent purchase the culvert, and sell it to Mr. Smith at the Town's cost, but he would have to hire a contractor to install the culvert on his property.

Possible Upgrade Sawtooth Road - John Bernard, owner of record of a property on Sawtooth Road said he is in the process of selling the property to Jen Sommers. He felt, to be fair to Ms. Sommers, she should know if the section of Sawtooth Road, a Class VI Road, fronting the property would be allowed to be brought up to a Class V road to allow

the issuance of a building permit. He stated that the lot is about 400' in on the Class VI section of the road.

There was a brief discussion of the condition of the road, and Selectman Guarino stated that in addition to the 400 feet of road to the Class V section of the road, the property has to have 200 feet of frontage on a Class V road, so they would actually have to upgrade 600 feet. Mr. Bernard said they are aware of what is needed to upgrade the road; they just want to be sure that they would be allowed to do the upgrade. The need for a turn-around for emergency vehicles was also discussed.

The Selectmen will conduct a site walk on Saturday, October 24th at 8:00 a.m. before they make a determination.

7:00 p.m. - Public Input

Mary Butler Lane – Brenda and Brett Currier and Michael Gordon were present to address the issue of Mr. Gordon using Mary Butler Lane to access his property on Allens Mill Road.

Brenda Currier said she had looked at the Selectmen's minutes where Mr. Willard had concerns about Mary Butler Lane. She wanted the Selectmen to have some history on the property, as they had been concerned about setting precedent by allowing Mr. Gordon to continue using Mary Butler Lane to access his property.

Brenda stated that they had sold the property to the Gordons in July; the property had been owned by her grandmother many years ago, and for the past 200 years Mary Butler Lane has been the access to the house. She said when Mr. Arsenault had lived there four or five years ago, it had also been his access.

Brenda said she and Brett had owned the cape on the other side of Rte 140 on Mary Butler Lane, and the Planning Board had made them use Mary Butler Lane as their access, even though they had adequate frontage on a Class V road. She said they also owned the abutting property, and had considered having a shared driveway, but were told they had to use Mary Butler Lane.

Brenda said they had moved to the other side of Mary Butler Lane. Mr. Gordon is on the other end of the property, where Brett's garage sits; the garage also accesses from Mary Butler Lane, even though they had access from Rte 140. Brenda felt it would cause unnecessary hardship for the Gordons to have to run a parallel driveway up to Mary Butler Lane when, historically, that has always been the access to that property. She said a subdivision had been made in 1986 where there was plenty of frontage on a Class V road, but that access had been kept as the driveway to the property.

Brenda stated that the first time there had been a problem about using that as a driveway had been this year when Brett had repaired ruts his truck had made in the road. She felt that disallowing the use Mary Butler Lane would be setting a precedent because Mary Butler Lane has been their access for all three of the properties they have owned on Mary Butler Lane.

Don said he had spoken with Mr. Sanderson of the LGC about the problem, and had been told that according to RSA 674:41, we just have to follow the procedure. If we bring the issue to the Planning Board using this RSA, the access could be off Mary Butler Lane without setting precedent. The homeowner would have to sign a waiver of municipal liability.

There was more discussion of the fact that Mr. Gordon has a buildable lot because he has the frontage on a Class V road.

Chairman Hatch is unfamiliar with the property, and asked that she be allowed to visit the property before a decision is made. She will try to visit the property this week.

Henderson's' ZBA Case – Bob and Laurie Henderson were present to discuss their concerns about the way their ZBA case had been handled, and the timeliness of getting the information they need to go forward.

Mrs. Henderson said they needed the approved minutes of the meeting to go forward within the 30-day appeal period to go forward to the Superior Court if the Selectmen do not go forward with a letter to the ZBA, and they (ZBA) agree to go forward with a new hearing. Laurie asked if the Selectmen had a chance to contact the ZBA to see if they would seek town counsel and whether there would be timeliness within that 30-day period for them (Hendersons) to find out if a rehearing could happen. She said if the 30-day time period expires, she loses her chance to go forward to the Superior Court.

Selectman Guarino told the Hendersons that the Selectmen had discussed this earlier this evening, and that he (Don) had talked with the ZBA clerk about the letter from the Department of Agriculture that supported that pony parties were basically agritourism. He said they had been trying to figure out when the letter was received. If it wasn't in the packet asking for rehearing, it wasn't in time. Laurie said her first meeting with the ZBA had been on July 16th, and the letter from Richard Uncles must have been written around the end of July, and it was included in the rehearing packet from her attorney. She said this was new information, as was the statement from her attorney that the discussion of agritourism was never discussed during the deliberative session.

There was discussion as to whether the letter had been in the packet. It was not in the packet Tim had received. Don asked if she had left the responsibility to the attorney to submit the rehearing application, and if the letter was in the packet.

Laurie said the letter had been in the rehearing packet, along with her letter of concerns about the meeting. She said the letters were noted and put into her file, but they were never discussed.

Chairman Hatch stated that whether or not the letter was in the packet would make a difference as to whether the Selectmen would ask the ZBA to consider a rehearing. Tim was asked to verify when the letter was received.

Laurie said this is all impacting her life, and her ability to conduct her business. She felt she is being discriminated against as a woman businessperson in town. She also felt important issues and discussions had been left out of the ZBA minutes.

Chairman Hatch said the Selectmen would get to the bottom of the letter, and would have a serious discussion on how to go forward with the ZBA; they are a judicial board.

Laurie reiterated that she is coming to the deadline for making a decision.

Class VI Road Policy – Laura Specter was present to discuss the changes that Town Counsel's office had made to the draft Class VI Road Policy. Also present were Class VI Road Chair Ella Jo Regan, members Carolyn Baldwin and Nanci Mitchell.

A good deal of the items in the draft policy had been eliminated; items that related to wildlife corridors, wetlands, and conformity to the Town's Master Plan, Ordinances and Regulations.

Laura stated that Class VI roads could be regulated in one of two ways; one is with an ordinance or through a Class VI Road policy under RSA 674:41. She said the draft policy that the Town had sent for review was a policy under RSA 674:41, not a zoning ordinance, so the conditions to be considered when deciding whether or not to grant a building permit on a Class VI road need to relate to the Selectmen's issues regarding the road, and should be limited to safe access to the property, and other things such as if emergency equipment could get down there. Laura said it should not include things such as whether a wildlife corridor would be affected; those are things that would be addressed by an ordinance.

There was considerable discussion about how to address the impact on wildlife corridors, wetlands etc. Laura said these issues should be addressed under ordinances, or talk with the planning board about having them incorporated into subdivision regulations. She added that it is subdivisions that would impact a wildlife corridor, not one house. Nanci Mitchell was concerned because they had spent three years walking, reviewing the Class VI roads, and then coming up with this policy; and anything that had been in the policy relating to natural resources is now gone from the policy. Carolyn Baldwin stated that before any decisions are made on a Class VI road, they should refer to the planning board that looks at the Master Plan and they would have concerns about the natural resource

issues that were raised. Laura agreed with Carolyn. Carolyn said they had models, but she didn't have them with her. Ella Jo said she always felt the biggest issue had to do with economics, such as undue expense to the town, and the strain on services. Brett felt they were missing the fact that the policy could affect people's use of their property, and we had to be careful not to take away their rights. Laura stated that we had to be careful that whatever policy they adopt is not too onerous, so that people skip over the Selectmen and go directly to the Zoning Board, and have to make sure standards are applied equally to everyone.

The Selectmen will talk with LGC about how to proceed with a policy, and Laura will take the concerns to Town Counsel.

7:53 p.m. – Break

7:59 p.m. – Back in Session

FYIs and Other Business

Minutes – Chairman Hatch asked that the portions of the minutes that dealt with the area selectmen's meeting be forwarded to the Barnstead and Belmont Selectmen, as well as Belmont Town Administrator Jeanne Beaudin and Belknap County Administrator Debra Shackett.

County Commissioners Meeting – Chairman Rachel stated that 2:00 Thursday, October 1st is the Belknap County Commissioners Meeting. She said she, KG Lockwood, a couple of members of the Barnstead Board of Selectmen, the Administrator from Belmont, and possibly the Belmont Selectboard Chair would be attending the meeting.

Rachel stated that her goal, after this initial meeting, is to have the department heads come up with a list of items they think they would be interested in considering for bulk purchasing. She said she would forward the lists to the Belknap County Commissioners, and that the Commissioners would find out what they could find for bulk purchasing for area towns. Chairman Hatch added that she hoped that attending the meeting Thursday would raise awareness in neighboring towns such as Tilton, Alton, Laconia, etc.

Highway Consortium - Chairman Hatch said she was pursuing getting information for the Highway department on the Highway Consortium. She felt \$25 a year is very reasonable to join.

Planner – Chairman Hatch referred to their earlier meeting with Mark Fougere, and asked how the Board wanted to go forward. She asked if they want to arrange a meeting with the Planning Board to meet him, and if they should advertise the position.

Selectman Abbott said she felt the Planning Board wasn't specifically asking them to post the position, they were asking if we need to. She said it is different if we are looking for a permanent employee, or a temporary fix. Selectman Abbott said the Planning Board was leaning strongly in the direction of getting Desiree trained, and up to Planning Administrator status, and we would no longer need a planner. She said if that is the case, we are looking for someone temporarily on an as-needed basis.

After a brief discussion, it was decided not to post the position. They could hire Mr. Fougere on a subcontractor basis. Chairman Hatch will discuss it with the Planning Board Chair.

Motor Compact Building – Selectman Guarino said he had spoken with Mr. Leighton, who lives across from the recycling center, who said he would look at the motor in the compactor building. He said the gentleman told him that he could repack them, or replace them if they are in bad shape for a cost that he didn't feel would exceed \$200. It was the consensus of the board to have the gentleman do the work.

Life Safety Building – Selectman Guarino said through discussions with Israel Willard and others involved, the fire and police chiefs, he would like to put together a construction committee, including these individuals, for the life safety building. They would address the driveway access, the site of the building, getting volunteers to cut and stump trees. Brett Currier had concerns about stumping the lot before they have decided the exact location of the building.

Don said the fire and police chiefs had looked at the building in Gilford, and they are talking with a couple of companies for the price of disassembling and reassembling the building; they will compare that cost with the cost of a new steel building. He said there is the possibility that the cost of disassembling the building, and the engineering costs might make it unfeasible to use that particular building. Don will call a structural engineer.

The other two selectmen supported Don forming a construction committee. Don will draft a press release notifying anyone who might be interested in the committee.

Mary Butler Lane – The Selectmen and Brett Currier briefly discussed the use of Mary Butler Lane as access to the Gordon's property. Chairman Hatch reiterated that she would like to visit the site before a decision is made.

Crosswalk - Rte 140 – Tim said we had a letter from the State in reply to the one we sent them with our concerns with the speed limit on Crystal Lake Road, a handicap-child sign on Rte 107 and the possibility of a crosswalk or signage on Route 140 by the school and year-round library. He said they would put up signage for pedestrian crossing near the school, would remove the handicap sign on Rte 107, and would look into the speed limit on Crystal Lake Road.

Selectman Abbott said she had been told that the school buses are dropping children off at the library; the kids have to take the bus, but there are kids who take their bikes that are free to go anywhere.

Selectman Guarino stated that he had spoken with John Fauci and the school wanted to get together with the Board of Selectmen to discuss safety issues. Rachel said they are scheduled for October 26th.

Shared Expenses -Rachel said she and Deb Cornett were going to meet next week to discuss the school district sharing expenses with the town for balloting. She said the school district needs to have their own ballot, and rather than going to the expense of buying a new machine, there is a chip that could be bought for the current ballot machine that would process the two ballots separately.

Approval of Minutes – The Selectmen reviewed the minutes of last week’s meeting.

MOTION – Selectman Abbott moved to accept the minutes of September 21, 2009 as amended. Selectman Guarino seconded. Motion passed 3-0.

Town Forest Boundaries – Tim said Nanci Mitchell had informed him that the town forester had painted the boundaries of the Pine Hill Town Forest, because there was a question of whether someone had been cutting trees in the forest to use as firewood. This should prevent that.

Logging – Tim said Nanci had also mentioned that someone who is doing logging in Gilford had approached her and her husband about coming across their land to bring logs out. If they allowed them to do this, it would mean coming down the Class VI section of Durrell Mountain Road, and would have to do some improvement to the road. He said the Mitchell’s had not given permission; this is just an FYI.

Damaged Pavement – Recycling Center – Tim said Justin Leavitt had informed him that when Waste Management had changed the box at the Recycling center, they had dropped the box and made grooves in the pavement. Justin has taken pictures and has notified Waste Management of the damage. Don will look into it.

Reval Update - Tim informed the Selectmen that the reval update is completed, and they are expecting to mail notices to residents on October 7th. They will be holding hearings on October 15th, 19th and 20th. They will start making appointments on October 13th. Tim said the assessor had asked if the Selectmen would be willing to have the assessments put on the web through Avitar for one month, so people could see the new assessments. Tim said it would cost \$2,000, and he feels there is money in the reval quoted price to do that. It was felt it would answer a lot of questions, and help with the hearings.

The consensus of the Selectmen was that if the money is there, we should post it on the web.

Tax Bills – Tim stated that because of the reval, the tax bills would be going out late, so revenue would be late coming in. He said that would mean we would have a money crunch in December, and due to the fact that County payments have to be made by a certain date, we would ask to hold back our December payment to the school.

Revenue & Budget Reports – Tim distributed copies of the latest revenue and budget reports. He said overall revenues are up, but we are down in recycling revenues. We are up because we have had some unexpected welfare reimbursements, and a gentleman bought back his property. We are down in recyclables because we had to pay to get rid of them for a while, but he said recycling prices are coming back up. He said motor vehicle permits are down, but they expect that we will receive enough so it would become a wash.

There was a brief discussion on the budget. The Selectmen were talking about holding the department heads to an increase of no more than 2% in their operating budget and a 2% personnel pay increase.

Email – Terry Donovan – Donovan Road – Selectman Abbott asked if everyone had received their email from Terry Donovan regarding the application for the culvert on Donovan Road.

Mrs. Donovan stated that the work is actually being done on the property line by a private party and not by the town. Also the plan submitted has the wrong name.

Selectman Guarino said he had asked the LGC about it. He said he wanted to know that since most town roads are bound by stone walls, if the right of way for the town to maintain the road is within the stone walls. Don said LGC said work within stone walls is considered normal maintenance. He said after speaking with LGC, he felt the contractor has the authority to work on the culvert as long as he has a permit, and he stays within the right of way (within the stone walls).

Another concern of the Donovans was that they understood a new design is under consideration that would increase water flow to the culvert, and they had not been informed if a change has been approved, nor have they been provided with a copy of the proposed change. The Selectmen said that they haven't heard either. Don said the issue had not been brought forth because the question was brought to the engineering firm about whether the change would overload the new culvert. He added that no work has been done.

The Donovans were also concerned about the appropriate oversight of the project since this is a Class VI road over which the Town has no maintenance responsibilities.

Selectman Guarino stated that this has been addressed before, and that, even when doing Places Mill Road, inspections had been done after the construction of the road. He said they could drill cores to see how well the road had been done. Don said when he had gone to look at the road, the construction had just started, and he didn't feel the need to keep going out there making constant inspections. Don said it is a work in progress, and he would check on the work whenever he is in the area.

Henderson's Concerns - Selectman Abbott said that after the discussion on the Class VI Road Policy, she had a brief chat in the hall with Carolyn Baldwin about the Hendersons. She said Carolyn had asked what the problem was. Selectman Abbott said she had told her that the problem was Laurie's business had been approved as a commercial enterprise. Carolyn had asked why that mattered. Betty Ann said she had replied that it mattered because it meant that Laurie had to abide by a much higher level of code for the property. Selectmen Abbott felt there needs to be a conversation with Carolyn Baldwin and with ZBA Chair Betty Hackett. Betty Ann felt Carolyn seems to be interested, and felt there might be a break there. Chairman Hatch asked if a meeting could be arranged for Carolyn and Betty to meet with the Selectmen. It was suggested that a chairman-to-chairman discussion might be a good first step.

There was a brief discussion about the letter from the State citing Laurie's endeavor as being what the RSA was written for, and the desire to see businesses like these in town.

Rachel will call Betty Hackett.

9:02 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.

9:14 p.m. - Out of Non-Public Session

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

09-28-09 BOS

APPROVED

**9:15 p.m. – MOTION – Selectman Abbott moved to adjourn the meeting.
Selectman Guarino seconded. Motion passed 3-0.**

Respectfully submitted,

Lois Dionne
Recording Clerk

