

APPROVED

**Board of Selectmen
19 October 2009
Minutes**

6:00 p.m. – Selectman Abbott called the meeting to order. Present were Selectmen Abbott and Don Guarino, Town Administrator Tim Warren and Clerk Lois Dionne. Chairman Rachel Hatch was not in attendance.

Others present were Recycling Manager Justin Leavitt and Fire Chief K G Lockwood.

After attendance everyone stood for the Pledge of Allegiance.

Recycling Issues

Dumping Fees – Justin stated that at the workshop that was held last Wednesday to set the GAT, there had been discussion about penalties for going over or under the set GAT. Justin was asked to get information about the amount of the penalties when he attended the Co-op's meeting on Thursday.

Justin explained that there is no penalty for going under our GAT, but the fee per ton is doubled for anything over the GAT.

Recycling – Justin stated that he had been trying to come up with ways to increase recycling at the facility. He had thought of staying open a whole day on Saturday, but closing the compactor at noon, and only accepting recyclables in the afternoon. Justin said that after speaking with residents and other towns, he had decided against this. Residents want to be able to get rid of all their trash in one trip. He said he is still working on other plans.

There was considerable discussion about mandatory recycling or instituting a pay-as-you throw program. Justin said the dumping fees would be going up \$5 per ton; more recycling would not only save us money, but would bring in additional revenue. Justin said that just about every other town in the state is using one or the other program.

Invoicing – Justin informed the Board that the Co-Op is considering changing the way their invoicing is done. He said they currently bill according to our estimated GAT; the charges are billed evenly over the year. They are asking Towns if they would prefer to be billed monthly for the actual amount that is delivered each month. After discussion, it was decided that Gilmanton would prefer to keep the invoicing as it is currently being done.

Ash Landfill – Justin informed the Board that Phase 5 of the ash landfill in Franklin has been completed.

Combined GAT – Justin reported that the final combined total going to the incinerator from all the Co-Op members would be 110,756 tons.

Bids – Aluminum & Copper – Tim had two bids that had been received to buy and clean up the aluminum and copper piles at the recycling center. They were as follows:

Jerry Austin	\$779.
Ralph Goodwin	695.

MOTION – Selectman Guarino moved to award the bid to buy the aluminum and copper piles at the recycling center to Jerry Austin. Selectman Abbott seconded. Motion passed 2-0.

Addition Employee – Justin informed the Selectmen that the time has come when he feels he would like to fill the vacant position at the center. He will discuss it with Tim.

Logging – Haas Property – Parsonage Hill Road - Mr. Haas explained that Mr. White, who had been going to do logging on his property, would not be here tonight, and that he (Mr. Haas) had someone else, who would be doing the job. Mr. Haas said a friend of his (Mr. Blanchard) had bought some timber rights to his brother-in-law's property on Rte 107. Mr. Blanchard had gotten access off Rte 107, and Thursday, while he was in the Town Office, he had asked Lois if Mr. White could come in to discuss how to remove the trees that are in the way to get his (Mr. White) equipment back to Mr. Haas' property.

Selectman Guarino asked if there were logs in the way that prevented Mr. Haas from getting to his property to do logging. Mr. Haas replied that there were no logs in the way now, but there is a Class VI road with a lot of rocks in it, so he can't get a car down it, and he would like to, in the future, put down some gravel as was done off Gale Road to make it more level.

Don stated that he had spoken with LGC, and there is an RSA that allows the Selectmen to allow work to be done on a Class VI Road for logging. Selectman Abbott added that no one is allowed to do any work on a Class VI road without permission from the Selectmen. Mr. Haas presented a letter to the Selectmen requesting permission to do the work on the road.

After a brief discussion, it was decided that the Selectmen would do a site visit to the property on Saturday, October 24th at 9:00 a.m.

Logging – Town Farm Road - Tim stated that a gentleman had come in today who is looking to do some logging on Town Farm Road, which runs from Province Road through to Meadow Pond Road. Town Farm Road is a discontinued town road, but is still named Town Farm Road because there are a couple of houses on the Meadow Pond end of the road. Tim said the gentleman has determined that it is more feasible for him to come in off Province Road. He said the Town has no jurisdiction of it (where he comes in) because it is no longer a town road, so Tim said he had informed the gentleman that he would have to notify the people on both sides of the road and get their permission to be able to get in and out. Tim said the gentleman wanted the Selectmen to be aware of what was going on, and had a copy of the letter that the gentlemen would be sending out to the property owners. Tim added that there are two people down there the gentleman wants to do logging for.

There was a brief discussion of why he would come in from Rte 107. Tim said the road from that end is in better condition. Brett Currier stated that the Snowmobile club had fixed that section of the road; it is a main tract of the snowmobile trail. Brenda Currier stated that the snowmobile club had paid to fix that road, and put culverts in. Tim said he would forward a copy of the letter to the snowmobile club, so they would be aware of what is going on.

Proposals - Ceiling Insulation - Tim informed the Selectmen that he is working on getting some proposals from different contractors to insulate the ceiling in the furnace room in the Academy Building and replace the broken tiles.

Hot Water Heaters – Selectman Abbott asked if the furnace had to run all summer to heat the hot water. Tim replied that it didn't; there is an electric hot water heater. He said he had been wondering if, because of the small amount of hot water we use on a daily basis, it would be cheaper to buy small individual instant water heaters; one for the two bathrooms downstairs, one for the two bathrooms on the main floor and one for the kitchen upstairs. Tim was asked to check the cost differential.

Land Gift – Tim informed the Selectmen that he had a letter from Isabelle Studley, who lives in Brevard, NC, but owns a piece of property on Stage Road. She said the acreage had been recalculated to ½ acre due to the remapping, and it is a nuisance for her to own, and would like to convey the property to the town as a gift. Tim said that Mrs. Studley had called Cindy Bedford, who had advised her to contact her abutters to see if they would like to purchase the property, but she hasn't heard anything from the abutters, so would like to give the property to the town. Tim said he sees no useful purpose for the town to own the property.

There was a brief discussion on the possible value of the town owning the property. The Selectmen will do a site visit to the property Saturday.

Reval Hearings - Tim notified the Selectmen that tomorrow is the last day for hearings for residents to discuss the update reval notices they had received for their property values. When asked, Tim replied that there had been fewer residents coming in than had been expected.

6:57 p.m. - Public Input – Members of the public present for public input were Brett and Brenda Currier, Michael Gordon, John and Claire Wilkens, Israel Willard and Bob and Laurie Henderson.

Mary Butler Lane – Brenda Currier asked if the Selectmen had made a decision on the use of Mary Butler Lane for Michael and Yvette Gordon to access their property on Allens Mill Road.

Selectman Abbott said they had received the last bit of information they felt they needed today to deliberate tonight, and make a decision. Brenda asked what that information was. Selectman Abbott replied that it was legal input that they had sought to help them make their decision. Brenda asked if they would have a decision next week, and was told they should have.

Building Permit Procedures – Israel Willard asked what the procedures were when a building permit is not issued. He said the building inspector goes to the property, and says a building permit is needed; the people get the permit or a cease and desist is issued. He said the ZBA made a ruling that went against the building inspector's decision; a cease and desist was not issued, and a building permit was not obtained, so that means one of two things. The building permit did not appear and there was not cease and desist, which Israel said is the inconsistency of the building inspector that he felt the selectmen have to address. Don asked what property Israel was referring to, and Israel replied that it didn't matter. The zoning and town procedures are if a building permit is needed, and you build without it, and someone reports you, the building inspector goes to your property and puts a cease and desist on it; you have thirty days to appeal that, but you don't build any more until you get the building permit, or until the thirty-day appeal period is over, and you have gone and had your appeal. Mr. Willard said this isn't happening. He felt it depends on whom you are, and where you are.

A brief discussion ensued, and the selectmen told Mr. Willard they would take his comments under advisement, and look into the situation.

Construction Committee – Mr. Willard asked Don where the letter was regarding the construction committee. He has seen nothing about it in the paper. Don replied that he had said he would get on to it. Israel stated that he didn't feel he wanted to be involved in it because the selectmen seem to be chairing it themselves, and nothing has happened. Don said they have been working on the building aspect, and Israel is concerned with what is happening on the site. Don felt they want to get an idea of what building would

be going on the site. There was discussion about forming the construction committee, and that they are running out of time to get things done before budget season.

Donovan Road – Mr. Willard said he had a letter from DES, and was totally appalled about what is going on. He said the court had ruled that the cost of the upgrade of Donovan Road was too much to put on to the Morrills, and the ZBA had felt they were not qualified to make road changes, so had referred it to the Selectmen. A prior Board of Selectmen, which included Don Guarino, had gone to the site, and wrote a plan that all three of them had agreed upon. Mr. Willard said the plan has now been watered down so it is just a matter of maintaining the road. He added that after Rachel had become a member of the Board, he had come and told them he didn't agree with the plan, but was glad they had decided something, but asked if they were going to stick with the plan. He said he had been told they were; there would be no deviation from the plan. Mr. Willard stated that every time he reads the Selectmen's minutes, something else has been changed; we have spent money for attorneys rather than go to court, made a decision, and that is what was agreed upon, but they aren't following that either.

Selectman Guarino stated that you go to mediation and make an agreement about the way the road is to be taken care of. He said the Clerk of the Works on this project is the road agent; they (road agent, Don, contractor, engineer working on road) have met to discuss things that have been brought up during the construction of the road. Don said when an issue arises that affects the road, they try to address it. He felt they are handling it properly.

There was discussion about the proposed changes, in particular a culvert. Don said the concerns the DES has stated in the letter had been addressed. The way the application was applied for, and whether there should have been any changes made after the mediated agreement was also discussed.

Brenda Currier asked Israel if he was representing the ZBA. Israel replied that he was not.

Brett Currier stated that the Board of Selectmen are in control of the roads in town.

Selectman Abbott stated that she and Don had mediated the agreement with the Morrills, and as construction has proceeded, changes were made to the plans that seemed reasonable to the Board of Selectmen, the road agent and the engineer who designed the road.

Wilkens Building Permit – John Wilkens asked if a building permit had been issued for his neighbor's (Wilkens) barn, and if not, had a stop work order been issued. An appeal had been filed, and the ZBA ruled against them (Joanne Wilkens & Ed Bernstein). It was determined that a building permit is necessary.

Mr. Wilkens felt it had been inappropriate for a board member to file an appeal for the owner. Don had filed the appeal to the ZBA for the applicants as the contractor on the job. Mr. Wilkens felt this was a conflict of interest, and violated the code of ethics according to RSA 21-G – 21-27. He added that from the very beginning Don had played a part in this issue.

Mr. Wilkens stated that he was led to believe this would now be going back to the code enforcement officer/building inspector who has to either put on a building permit, or a stop work order; it is going back to the person where this all began.

Mr. Wilkens said he has been accused of pursuing this because of a family feud with his sister, who owns the property in question. He said since he made his first inquiry, there has been stonewalling, circular legalities, conflicts of interest and flagrant disregard of clear-cut evidence. He said the Selectmen are Town employees, who work for him, and for some reason he is not able to get anything from them, and he felt it was time for him to find another person who works for him to help bring some clarity to this. Mr. Wilkens added that somewhere in this state, there is a governing authority that would put a stop to the cronyism and conflicts of interest going on in this town. Mr. Wilkens said he had been held up, on his place, making sure he did it right, not from anybody's fault, but because it started with the first stop –work order, and he was held up for months getting through everything. He said he has been being stonewalled since April when he had brought this to the town.

Henderson Issue – Laurie Henderson started saying, that like Mr. Wilkens, she had been....Selectman Abbott interrupted Laurie to inform her that she did not want to go over past information that she had repeatedly given the Selectmen. She asked if Laurie had new information for them. Laurie replied that she did, but asked how they could sit there as a board, working for her, stating that her past information was not important. Selectman Abbott replied that it was important, but they had heard it again and again, and asked her to get on to her new information.

Laurie said she has been in the position of being bounced back and forth between the Selectmen and ZBA, and getting a lot of misinformation, inconsistencies and disrespect. She said she is asking the Selectmen where she is supposed to go next. She went to the ZBA, at Ms. Hatch's request to find out why the minutes were accepted when she had submitted a letter about the minutes of the July 16th meeting, and they approved those minutes. She said she has been going to every meeting to see what goes on. Mr. Gray, who was not at the September 17th meeting, asked the chairperson why her letter of concern was in the file. Laurie said she (Chair) stated that it was a piece of information given to the land-use clerk; therefore, it had to be included in the file. She said Mr. Gray had been concerned about it because it was personal opinion, which opened up the arena to the public to talk about things that were stated during the meeting. Laurie said she had stated that her concern was that letter had nothing to do with her rehearing, and nothing to do with the decision in the case, but was solely a letter of concern to the chairperson

about the minutes of the meeting, and things that took place during the deliberative session, and had not been recorded accurately into the minutes. Laurie reiterated what she has, at previous meetings, said that the deliberation session was not on the tape that she had purchased. She said Mr. Gray had stated that Bob Flanders had stood up, and that she had stood up and spoke during deliberation. She said it was erroneous, she did not stand up and speak, and she had asked the chair to clear it up. Laurie said there is much misinformation and inaccurate details, and no one is following through to make amends for misinformation that impacts citizens of this community.

Laurie asked why this is allowed to happen. She said she approached the ZBA chair, and was stonewalled. Laurie asked how much time people have to waste going to meetings and typing up letters to the Selectmen. She had a letter she said she would give them tonight to read. Laurie stated that she had done all these things, and the only place she had gotten was standing in front of the Selectmen being approached in a disrespectful manner tonight.

Selectman Abbott stated that the Selectmen had told Laurie that there is nothing more the Selectman could do for her; they cannot overrule the ZBA, and her next step is to go to Superior Court.

Laurie said that wasn't what she was getting at. She was getting at the fact the ZBA Chair had not read a letter she had given her into the minutes of the meeting, and that a deliberative session of the meeting was not taped and the minutes were not accurately depicted. Laurie stated that at the last ZBA meeting she had been to, Mr. Levesque had asked what the Board should do about the granting of the special exception, and asked what was the point, were the applicants just trying to get after Bob Flanders? Laurie said she felt this was a negligent statement to have been put into the minutes, and she didn't understand why it was there.

Selectman Abbott said she had no answer for that. Laurie stated that the Selectmen are the watchdogs for what goes on in this community. Selectman Abbott reiterated that they have no control over the ZBA.

7:29 p.m. - Selectman Abbott closed public input.

Energy Committee – Present representing the Energy Committee were Chair Amy Russell and Nate Abbott.

Energy Assistance - Nate explained that they were here to make a proposal for the modification of the procedures of the general assistance administrator. He said this is to afford the Town the opportunity to save some of its general assistance budget, mainly for heating through a program offered by the Community Action Program Belknap-Merrimack Counties and the Laconia Community Action area center. Qualified

applicants could receive heating assistance, energy audits and free weatherization services. People who don't qualify for free services could receive the services for a fee.

The Energy Committee had made up coupons, which they felt would be lawful and prudent for the administrator to distribute to applicants. Copies of the coupons were distributed to the Board for their approval. Nate said the idea would be for these coupons to be given to applicants when they come to the Town for heating or energy assistance. He said it would also give the applicants an opportunity to get an energy audit, which could result in lower monthly expenses even after they no longer need assistance. Nate gave Tim the name and telephone number of their contact person for this program.

Tim Warren stated that most of the applicants who come in for assistance for heat or electricity have already been to the Community Action Program (CAP). He said he didn't know if CAP offered the weatherization program to them, and thought the coupon was a great idea. Tim added that there is a program through the Co-Op, depending on your income, where you could get your electric bills reduced up to 75%.

Nate asked if Tim knew what percent of the annual general assistance budget went toward heating assistance. Tim felt it was probably 20-25%, but wasn't sure.

Energy Audit – Academy Building – Selectman Abbott asked if they (Amy & Nate) were going to talk about the Academy Building audit update.

Amy stated that Paul Callahan had talked to her; he has a preliminary report and overview, but he couldn't be here tonight. They will wait until Paul can come in, and he will report his findings. Nate said that in a preliminary note that Paul had had sent to come committee members, he had stated that there are enormous opportunities to conserve energy and costs in this building. Selectman Abbott asked if we could have a prioritized list to take to Town Meeting. Nate felt that would be included in the report.

Energy Audit Presentation – The Board was informed that Paul Callahan would be giving an energy audit presentation for the public at the Year-Round Library tomorrow night at 6:30

K.G. Lockwood – Update

H1N1 Flu Vaccine – Chief Lockwood said a member of the board had asked him to come in tonight to give an update on the H1N1 flu situation. He distributed several handouts and emails he had received from the NH Dept. of Health and Human Services.

Chief Lockwood explained that this has been an ongoing thing since July or August, from a state level, and he has been working with them. He said the state is working on the vaccination procedure as they would in an actual pandemic situation, with the exception

of increasing the amount of sites. Chief Lockwood said he is updated on almost a daily basis.

Chief Lockwood said one of the questions the Board had was where they are at with vaccinations for town employees. He said he had been working with the police and fire department personnel, and has about 10% who are interested in getting the vaccine; today was the deadline for signing up for it. Chief Lockwood stated that the fire and police department personnel and EMTs are the only ones currently eligible to receive the vaccine.

Chief Lockwood said the state is asking that vaccines be done locally at fire stations, etc. He said he is looking for the Board's guidance, but he would like to opt out of it for liability reasons in the agreement, a copy of which he had given the Selectmen, we would have to sign if the shots were given locally. The chief added that he didn't feel residents would have a great enough distance to travel to get the shots to make it worthwhile. The Selectmen agreed with Chief Lockwood.

Chief Lockwood said the virus travels about ten feet from person to person, and the influenza rate now is what is normal for February. The mortality rate is under 1%, which is lower than the regular seasonal flu; co-infection is the big issue with this flu. Young kids and those over 65 are the most likely to have trouble. Chief said he had almost completed a staffing plan, should we run into a pandemic here. He said he was unsure where the money would come from, because this isn't a natural disaster, so FEMA wouldn't cover it.

There was a brief discussion on an action plan to keep the flu from spreading, such as using Purell, disinfectants and keeping further away from the counter when dealing with the public. K.G. said people should stay home if they have symptoms, and remain home for at least 24 hours after the fever has subsided. He added that all departments should be prepared that they might have to work with a short staff during the flu season.

Vehicle Repairs – Chief Lockwood informed the board that the ambulance that had been sent out for repairs is supposed to be back tomorrow. The cost of the repairs will be about \$3,000. Engine One has an exhaust leak that will have to be fixed.

Employee Report – Chief Lockwood informed the Board that four EMTs are almost through their mentoring program, and almost ready to go solo. There are three firefighters who are enrolled in the firefighter 2 classes. He said there are two LGC classes, that he cycles through the year, left to go to, one in November, the other in December.

Chief Lockwood said that Lt. Perkins had stepped down from his position in the department to spend more time with his grandchildren, but would stay on as a driver/operator. He said he would not fill the vacant position at this time.

Chief Lockwood reported that he had four people he would be sending letters out to for poor performance. He said these are to people who have only responded a few times during the year.

Bulk Purchasing – Chief Lockwood reported that they had started bulk purchasing of EMT supplies with neighboring towns. He said they had worked out a deal with the vendors to get bulk prices. Selectman Abbot stated that Chief Lockwood had previously expressed concern about storage and distributing of bulk purchases. Chief Lockwood replied that they made an agreement with a vendor that they don't have to actually buy bulk. As long as the towns all agree to buy from this particular vendor, they would get bulk prices.

Grants

Fire Station Grant - KG said he had asked about the grant for a new fire station, and was told they have until December 31st to reply. He said they haven't given any indication to what the answer might be.

All Hazard Mitigation Plan – Chief Lockwood reported that he had just received a \$6,000 grant to update the All Hazard Mitigation Plan, which has to be done every so often. He said we usually hire someone in Sanbornton to do the update, and we pay about \$5,500 to get it done. Selectman Abbott asked to have it explained what All Hazard Mitigation meant. Chief Lockwood explained that we have a book that covers every conceivable bad thing that could happen in town, and it has to be updated every so often. He added that Resource Conservation and Development (RC&D) would do it for free; they can do this because they live off other people's grant money, rather than our grant money. He said they would do the hardest part of the update, which includes GIF mapping of all water supplies and hazards. Chief Lockwood added that the only thing is we would have to agree to accept their plan if they do it. He felt okay with that because he has worked with them before. Chief Lockwood said they also do dry hydrant-engineering plans for \$250 each opposed to the \$3,000 figure we had received from Alton. He said they could get the plan up dated, and dry hydrants engineered for about \$3,000, so they could use the other \$3,000 for other things. Tim asked if it was a non-matching grant. KG replied that it was.

The Chief said he was asking the Selectmen's approval to work with RC&D. The Selectmen approved Chief Lockwood's request.

Fire-Prevention Grant – Chief Lockwood reported that he had applied for a \$10,000 fire-prevention grant. This is an awareness grant, and would also buy supplies.

Emergency Management Grant – Chief Lockwood said he had applied for a \$42,000 Emergency Management Grant. He said Allenstown had just gotten a trailer and traffic management cones and barricades through this same grant. KG said he had spoken with

a girl from the state, who told him to use the same application as Allentown had used, just substituting Gilmanton's name. He said this would help with road washouts, etc. We would have the barricades and cones, plus a trailer to haul them in.

Plans – New Safety Building - Selectman Abbott asked if either KG or Don had any new information on the engineering of the steel building for the life/safety building. Don said they don't have the information on the steel building, but they are working on it. He said they have the original Salisbury plan, and even though they are working on the steel building, if they are awarded the grant, they would probably go ahead with the Salisbury building plan.

DOT Hearing – Tim informed the Selectmen that he, KG and Justin would be attending a preliminary hearing at DOT in Concord about the third driveway permit at the recycling facility.

Driveway – Safety Building – Selectman Abbott asked about the driveway permit for the safety building. Tim said he had sent a letter asking them (the state) to update the permit, but he hasn't heard back from them. He said he had called the state and asked what we needed to do on this, and was told we had to get the application, fill it out noting that we are asking to renew it; it is very seldom the permits are not renewed.

Town Vehicle – Tim reported that the old police vehicle that the Town employees have been using is at the garage for repair. Bob was told that it wouldn't last another year. It had a shock that had rusted through, which has been cut off, and it is felt that control of the vehicle had been compromised. Bob asked if the Selectmen wanted him to continue to use the vehicle; he could drive it the way it is, but was wary of driving it on rough roads. Don will go to the garage and look at the vehicle. Tim was asked to check the cost of the use of the vehicle opposed to paying mileage to see if it would be worthwhile trying to get another used vehicle.

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

MOTION – Selectman Guarino moved to accept the minutes of October 5, 2009 as amended. Selectman Abbott seconded. Motion passed 2-0.

Seminar – Tim informed the Selectmen that he would be attending a Public Service Seminar in Manchester on Wednesday. The purpose of the seminar is to get coupons that Public Service gives to municipalities to give to people whose electricity might be in danger of being shut off. He said they could take the coupon, and receive a one-time reprieve from having their electricity shut off.

General Procedures – Selectman Guarino wanted to mention to the Board that the reason he had submitted the appeal for the Wilkens was that Joanne Wilkens and Ed Bernstein, owners of the barn that was brought up during public input, had to go home to Connecticut where they both have teaching positions. Don said prior to this appeal, he

had never been involved in the process. He said John Wilkens asked earlier why there wasn't a permit on Joanne Wilken's barn, whereas he had to get a permit. Don said Joanne had addressed it at a ZBA meeting with the Code Enforcement Officer present, and the ZBA had decided a permit was needed. Don said there had been new evidence, a letter from the Code Council supporting Bob's decision; the Code Council writes the BOCA Code that Gilmanton follows. Instead of having the whole thing in Connecticut, and not understanding he was in a position where he shouldn't have been representing them in front of a board, he had made an honest mistake. It hadn't been done on purpose. Because Joanne and Ed were in Connecticut, they had asked if Don could speak on their behalf.

Don said the Code Enforcement Officer is a professional who attends seminars, is trained by the Town, is a contractor, so when there is a question concerning an administrative order, which is the fact that it needed a building permit, he (Don) felt it had been handled very professionally. Don added that he doesn't question when John Wilkens said a mistake had been made, and if anyone had told him that he shouldn't have represented the Wilkens, he wouldn't have done it; he just happened to be the contractor. Selectman Abbott added that Bob is well respected in his field.

Don said, speaking as a Selectman, he doesn't understand how a technical question could come to a judicial board as the ZBA and be addressed by a board that has had no training in the field. Don said the appeal process is described in the BOCA Code Book. He said the question is if a lay board is hearing technical questions, and in the Code book, there is a means of appeal.

Section 112.1 of the BOCA Code reads “ that in order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.”

Section 112.2 reads “An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.”

Section 112.3 reads “ The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.”

Selectman Guarino stated that this is basically saying that it would be tradesmen, most likely from town, but could be from out of town, that the governing body picks to sit on

this board of appeals. He said he knows he couldn't be on the board that picks the board of appeal, and noted that he hadn't brought the original appeal forward. Don added that the ZBA had no authority over this. Don said he had spoken with Bob about this, and Bob felt there might be a technical board within the state, which Bob is going to get from the state, and it is feasible that John and Claire could appeal their question to them. He said if there isn't a technical board, then the governing body would have to put a board together to hear John and Claire's appeal. Don stated that, by law, the ZBA had no authority to make any decision on this. Tim stated that, by law, the process is an administrative appeal has to go to the ZBA. Don replied that was only on actual variances, etc. Don said this had been handled improperly. He had called the LGC, and they said this (the way Don had just explained) was the way this particular situation should have been handled; the ZBA doesn't have the technical expertise, and the Town of Gilmanston should have an appeals board with experts sitting on it for questions of codes. Don said they had told him the town could also check with town counsel. Selectman Abbott felt we should consult town counsel. Don said this is the law; the Town had voted to abide by the BOCA Code (2006 International Building Code), and this is a section of their code.

Selectman Abbott said we need to consult with Town Counsel on this, and also ask what the proper thing to be doing is while this is in process, because it has been suggested that we need to either issue a building permit, or a stop work order should be issued.

Tim said before he went on vacation, Israel Willard had asked if a cease and desist had been issued yet, because the ZBA had determined a permit was needed, therefore, Israel said he felt Bob should have issued a cease and desist order right then. Tim said Bob's response had been that any time a decision is issued by the ZBA, there is a 30-day appeal period, and if the ZBA said that someone could build within the setbacks, Bob still has to wait thirty days to issue a permit, so his thinking is he needs to wait the 30-day appeal period before he issues the cease and desist, if they haven't gotten a permit. Tim said Israel had disagreed with Bob. Tim said his (Tim's) thought is if building continued after the 30-day appeal period, and no permit has been issued, then you issue a cease and desist. If building continues after the cease and desist, then a fine is issued.

Don stated that the normal process is that Joanne Wilkens still has the right to appeal to Superior Court if the appeal should be denied. He added that Joanne and Ed could handle it from hereon; there is no need for him to be involved.

Don Stated that this is the first time he has heard of a challenge that has been a technical question that should have been heard by an appeals board.

Mary Butler Lane – The Selectmen discussed Mr. Gordon's request to use Mary Butler Lane to access their property on Allens Mill Road.

They reviewed RSA 674:41 and all the information they had received from Town Counsel and the Attorney at LGC, plus town ordinances. It was felt this is an exception that would not set a precedent because it has been used as an access for so many years. Don said he had called LGC and found out that because the lot has frontage on a Class V Road, it is a legal lot that could be built on, so there was no need to consider RSA 674:41. Our ordinances do not state that access has to be from a Class V road, only that it have the required frontage on a Class V road. They discussed the issue of abandonment, and it was determined that doesn't apply to driveway access. Safety issues of the access were also discussed, and it was determined there were no safety issues in this instance. The information from LGC had followed the same reasoning they had received from Town Counsel.

To allow access from the Class VI road, the Town would require a waiver of Municipal Responsibility.

After lengthy discussion and review of all information, the Selectmen agreed to allow the Gordons to continue to access their property from Mary Butler Lane. A formal motion and conditions will be made next week when the full board is present, and after a site walk is done to determine the condition of the road.

The Selectmen will do a site walk on Saturday to check the condition of Mary Butler Lane.

Construction Committee – After a brief discussion, it was determined to set a meeting date for the Construction Committee for the life safety building for Wednesday, October 28th. Don stated that this would be a technical committee, who would be talking about site work, not the construction of the building.

Budget – The Selectmen had a lengthy discussion on where we stood with the 2009 budget, and what would be a reasonable increase to allow in department budgets for 2010.

They discussed the actual operating budgets, if there should be employee raises or COLA increases, and the fact that the government would not be issuing COLA increases for Social Security recipients. These issues will be discussed at a department head meeting tomorrow morning before a final decision is made.

Waste Oil Furnace – Tim stated that the grant for the waste-oil furnace had to have a certification signed by the Town Clerk stating that the Board of Selectmen voted to authorize an individual to sign contracts on behalf of the Town with respect to grants and contracts with the NH Department of Environmental Services.

MOTION – Selectman Guarino moved to appoint Tim Warren as the authorized person to sign for grants and contracts with the Department of Environmental

Services on behalf of the Town of Gilmanton. Selectman Abbott seconded. Motion passed 2-0.

9:29 p.m. - Enter into Non-Public Session as per RSA 91-A:3, II(a)

Selectman Guarino 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 Abbott seconded. Motion passed 2-0.

The Selectmen discussed a personnel issue.

9:40 p.m. – Out of Non-Public Session

Selectman Guarino moved to come Out of Non-Public Session. Selectman Abbott seconded. Motion passed 2-0.

9:41 p.m. – MOTION – Selectman Guarino moved to adjourn the meeting. Selectman Abbott seconded. Motion passed 2-0.

Respectfully submitted,

Lois Dionne
Recording Clerk

