

**APPROVED**

**Board of Selectmen  
26 October 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 were Police Chief Phil O'Brien, Fire Chief KG Lockwood, Stan Bean, School Superintendent John Fauci and Recycling Manager Justin Leavitt.

After attendance, everyone stood for the "Pledge of Allegiance".

**Cross Walk – Rte 140 across from school** – Chairman Hatch explained that Chief O'Brien, Superintendent John Fauci and Stan Bean had spoken with Don Guarino expressing their concern for the safety of students crossing from the school to the year-round library, and Don had suggested they meet with the Selectmen to discuss their concerns.

Chairman Hatch recused herself from the discussion because she is an employee of the school, and turned the meeting over to Selectman Abbott.

Mr. Fauci expressed his concern for the possible safety issues regarding the school children crossing Rte 140 from the school to the library. He said the concern is not so much for during the school hours because an adult is with the children and supervise their crossing. The concern is after school when there is no supervised crossing. He said sometimes children remain after school between the time of dismissal and a basketball game or activity that is held at the school. Mr. Fauci felt this would be the time for the major concern, as he felt the children might spend time prior to the school activity at the library, and would be crossing Route 140 unsupervised.

Mr. Fauci said he and Stan Bean had spoken about the safety issues at the beginning stages of the library. He said Stan had informed him that he had a meeting with the DOT (Department of Transportation), and there was discussion of various possibilities of keeping the children safe. Mr. Fauci said he had also spoken with both the police and fire chiefs, and they had similar concerns about the safety of the students; this had prompted the letter he had sent the Selectmen to set up a possible committee to address solutions to the problem. He said that after he sent the letter, he found out that Selectman Guarino had already started the process; he had already talked with DOT regarding signage and

crosswalks. Mr. Fauci stated that since he has talked with Don, there has been signage put up on both sides of the library, but he is concerned if that is enough to keep our students safe especially with Daylight Savings Time ending next week, and the coming of inclement weather, or if it should be pursued further with DOT.

Selectman Abbott stated that the Selectmen are also concerned with the safety of the students, but they understand that there are constraints because of Rte 140 being a state road. She asked Stan Bean for some history regarding trying to work with the DOT on this issue in the past.

Stan explained that in 2000 when the library committee had their charette, and were considering having a senior village in conjunction with the library, they had talked with DOT, and many suggestions were made, but it was too early for decisions. He said when they started construction of the building in October 2004, he, Steve Bedard and Paul Darbyshire had met with Mark Morrill, District three engineer from DOT. They had discussed an underpass and an overpass, neither of which was considered feasible. He said DOT had said that a caution light, along with a crosswalk was their preferred alternative at that time, and that speed reduction would be considered if it appeared it was necessary, but it wasn't a preferred solution.

Selectman Guarino stated that when he had spoken with the State, he was informed that District three doesn't have authority over crosswalks, and the DOT in Concord said they don't like to put crosswalks on a major east-west road.

There was considerable discussion about how to ensure the safety of students crossing Rte 140, including suggestions of crosswalks, signage, blinking lights, streetlights in front of the school and the school parking lot and reduction of the speed limit. Superintendent Fauci is going to try to set up a meeting with DOT to discuss their concerns, and it was asked that Chief O'Brien and Chief Lockwood attend if a meeting could be arranged.

Chairman Hatch rejoined the board, and resumed her position as chair.

**Citizens Emergency Response Team** – Chief Lockwood informed the Board of a Citizens Emergency Response Team. He said he has a person interested in joining the team. Before anyone can join the team, they have to get the approval of the community. He said he is prepared, from an Emergency Management standpoint to support the organization. The only cost to the Town is \$12 per year, per person, for Workmen's Compensation Insurance through Primex.

Chief Lockwood explained that this is an organization based out of Laconia that helps out during natural disasters, or anything that is a long-term event. They will also help with the HINI vaccine. Chief Lockwood said he has spoken with other area chiefs who have members on the team, and they feel it is a good investment. Chief Lockwood stated that

he felt it would be a good investment, and asked permission of the board spend the \$12 to enroll the person from his department. He added that members of this team do things that would free up his personnel during ice storms and other emergencies, such as directing traffic, etc.

**MOTION – Selectman Abbott moved to approve the expenditure to join and participate in the Citizens Emergency Response Team. Selectman Guarino seconded. Motion passed 3-0.**

**Proposed Budget** – Chief O’Brien stated that it was his understanding, that while he was away, the board had decided they were looking at a possible 2% across-the-board budget increase, and no employee raises for 2010. He asked if the board would reconsider the raises. Phil stated that he has a good group, and didn’t want to lose anyone. He added that if he lost a full-time officer, between the cost of hiring and uniforms, it would cost \$4,000 - \$5,000 for a certified officer, and if they were uncertified, then the cost would be \$12,000 to \$13,000 to fill the position. Phil asked that the Board consider a COLA raise of 1%, as a show of good faith on the part of the Town.

Chairman Hatch said she would like to reopen the discussion, as she had not been here last week. Phil said he wasn’t concerned about what the board did, just that he hadn’t been present at the department head meeting when it was discussed, so had no say in the discussion.

There was a brief discussion during which it was noted that the cost of health insurance was going up 16.4% next year. Tim noted that the increase would also increase the employees’ share of the insurance. Chairman Hatch asked if the Selectmen would be willing to reconsider their decision, and discuss it later in the meeting. The other selectmen agreed to discuss it later.

**Belknap County Commission** – Chairman Hatch stated that she and Chief Lockwood had gone to the County Commission’s meeting last month, and had further discussed the concept of bulk purchasing with area towns. Rachael stated that the next meeting would be held on Wednesday, November 4<sup>th</sup> at 2:30 p.m.; one of the agenda items is to continue the discussion of bulk purchasing. She stated that she is planning to attend the meeting, and would like the department heads to come up with lists of items to consider for bulk purchasing for her to take with her. Rachel also asked Tim to plan to attend the meeting; at the last meeting, a lot of Town Administrators were there because a lot of the information is regarding financing and vendors. It was noted that the area fire departments had started bulk purchasing of EMT supplies. Selectman Hatch noted that the impression she had received is that the area fire departments work together on their own initiative, and have started the process moving forward.

**Site Walks** - Chairman Hatch asked Selectman Guarino to report on the site walks that he and Rachel had been on last Saturday.

**Sawtooth Road** - Selectman Guarino reported that they had started on Sawtooth Road, and met with the developer, who wants to upgrade from the end of the paved Class V section to the parcel approximately 400' in. Don said they had informed the developer that in addition to the 400', there needed to be 200' of frontage on a Class V road, so they would actually have to upgrade 600'. Don said they were concerned about a hump right after the Class V section, and there is a wet spot in front of the property. He said they had looked at that in terms of a fire truck turn around, and had discussed a hammerhead, which the developer was open to. Don said the developer was interested in getting permission to upgrade it, with the idea that he would have an engineer draw up a plan, and could hopefully do work the following spring. He felt it looked like there would be a good working relationship between the Town and the contractor. Don said they had also discussed retaining the stonewalls on the left hand side of the road. Chairman Hatch noted that Conservation Chair Nanci Mitchell had also attended the site walk.

Tim reminded the Selectmen that this was the same road that they had denied the right to upgrade in 2006. He distributed backup of that denial. Chairman Hatch felt they were in very preliminary stages of discussion. Her concern was that a section of the road was very steep, and Nanci had been concerned about the water table. Tim said this had been discussed on April 17, 2006 and May 15, 2006, and the applicant had also gone to the Planning Board for an informal discussion.

Don said they didn't have the road file from the Class VI Road Committee to reference, but felt they should reference the Class VI Road Committee's recommendation for the road. There is a tier II wildlife corridor further down the road toward Middle Route.

**Parsonage Hill Road** – Don stated they had gone from Sawtooth Road to Parsonage Hill Road where they met Joe Haas. He said they had walked into Parsonage Hill Road from where it intersects Meeting House Road. Don said there are some sections that would be difficult for a tri-axle truck to get in to log; there is a steep section where all the gravel has eroded off the ledge, and looked like it would damage a large truck trying to get to Mr. Haas' property; other than that he felt the road is in good shape.

Don felt that Mr. Haas had misinformation about what he could do on the road. He felt he had the authority, with the permission from the Board of Selectmen, to cut trees down in between the stonewalls, make it wider and lay gravel down to get his car in. Don stated that you can currently drive a pick up truck from the Meeting House end of the road to the meetinghouse, and the road is in good shape from the Rte 107 end. Don said they wanted to wait until they could meet with Mr. Haas' logger, and informed Mr. Haas that he should not be cutting any trees, except in front of his own property. Don felt the Selectmen should send Mr. Haas a letter informing him that he is to do no work on Parsonage Hill Road at all until he gets a logger, and they meet with the Selectmen. Chairman Hatch said they had indicated to him that if he intends to do logging in the wintertime, there is no need to do anything to the road.

**Stage Road** – The Selectmen did not do the third site walk on Stage Road.

**Public Input** – There were many members of the public present for public input. Chairman Hatch asked that if any personnel issues were brought forth in public input that no individual names be mentioned.

**Power of ZBA** – Israel Willard asked that Chairman Hatch read into the minutes RSA 674:33 regarding the power of the zoning board of adjustment.

Rachel read from the copy of the RSA that Mr. Willard handed her. “The zoning board of adjustment shall have the power to hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16”

Selectman Guarino stated that the last line said, “administer zoning ordinances”, which Don said is a very important line.

Mr. Willard referred to the “draft” minutes of the last selectmen’s meeting quoting that “Don added that he didn’t question when John Wilkens said a mistake had been made”. Israel said he was in the Selectmen’s office, and had talked with the ZBA clerk. Don was speaking to the Selectmen in page eleven of the minutes, and if you go to page twelve, after the quote, selectman Guarino still speaking after he already said and been told, the Chair allowed him to continue to speak.

Don said this was a person speaking before another board. Israel said Don stated that, by law, the ZBA has no authority. Israel asked, what law? He said no law had been quoted. Israel said he had called LGC, and had been told there was nothing quoted.

Mr. Willard stated that the minutes also reflect that Tim had said before he went on vacation Israel had spoken with Bob, and Israel said he had never, at any time, spoken with Bob Flanders, and resents that a town representative is quoting him in a meeting, saying he spoke with Bob Flanders; he spoke with the ZBA clerk to find out if either a building permit or a cease and desist order had been issued. He said Bob wasn’t there, and Tim had said he (Tim) would bring it to Bob’s attention.

Chairman Hatch asked if Don wished to respond to Israel’s remarks.

Don said when they were speaking about general procedures, the “draft” minutes on page eleven, what he was saying was that if there was a conflict, and he was just speaking because the Wilkens were in Connecticut, and nobody had said that he was representing them as a contractor. Don said that on page twelve, he is not representing anybody, he is just giving general information, so if you want to know what the law is, the Town of Gilmanston adopted the 2006 BOCA Code in an election, and felt he could speak on this.

Israel replied that it is against the law for Don to speak on the Wilkens' case. Don responded that he was speaking on the BOCA Code, not the Wilkens' case. Mr. Willard responded that the BOCA rules Don is talking about reflect the Wilkens' case. Chairman Hatch stated that Israel is correct in that Don is not allowed, as a Selectman, to speak about the Wilkens' case property matter, but if you are talking strictly about the BOCA Codes, she could allow that.

Chairman Hatch stated that Don had brought up a good point; these are "draft" minutes, which have not been approved or posted.

Israel stated that Selectman Guarino also stated that the ZBA has no professional people on the board. Israel said there is a stonemason, and he considers himself a professional; he is licensed by the State. He said Don is looking for a way out, to not have to go by the law, so he wants to form another board that might side with him.

**Wilkins – Permit-** John Wilkens asked if a building permit or a stop-work order had been issued on the Joanne Wilkens barn. Chairman Hatch said she didn't know if either had been issued, but she would find out.

Mr. Wilkens stated it is his understanding that if not policy, the practice has been that as soon as the ZBA makes a ruling, whether there is an appeal, or no appeal, a stop-work order or a permit is supposed to be issued; then the appeal goes on. He said work is still going on up there, and it shouldn't be. He asked if this has been the case in the past, why, when a selectman is doing the work on the barn, has this practice been changed.

Chairman Hatch assured Mr. Wilkens that she would personally follow up with the building inspector. Mr. Wilkens asked if she would have an answer before next Wednesday. Rachel replied that Bob only works one more day this week, but she would follow up with him on Wednesday.

Claire Wilkens asked why they have to keep coming back to these meetings to find out why people are not doing their jobs; they have been doing this since April.

**Laurie Henderson – Concerns** – Laurie stated that she had a couple of issues she wished to discuss tonight. The first is selective enforcement. She referred to hers and the Wilkens issues as selective enforcement. Her own, in particular was that the code enforcement officer had told her that the commercial use of pony parties on her property had been brought to him by another resident, and that is why he had to address it. Laurie added that she had brought many issues to the Selectmen due to the off-site sign ordinance, as well as to the ZBA, on many occasions. Laurie said she had taken pictures of signs that had been up in the spring, and her husband had taken pictures today, and the same signs were up today. She said these signs are not only for in town, but also out-of-town businesses. Mrs. Henderson presented the pictures of the signs to the Selectmen.

Laurie said her sign, which was for an agricultural use, had been taken down within hours. She said she had come to the Selectmen because she had been confused about the off-site sign ordinance; she had contacted the planning board, and had asked for direction and assistance in how to allocate an off-site sign permit. Laurie said she had contacted the Code Enforcement Officer to find out why he had removed her sign, and was told that he was upholding the wishes of the Selectmen to uphold the sign ordinance. She said if he is in an area and sees an off-site sign, he should not take just one sign, but all the signs there; she feels targeted.

Chairman Hatch asked what happened when she had come to the Selectmen about the off-site sign. Laurie said she had been told she had to address the planning board. She said when she had her joint meeting with the ZBA on July 16<sup>th</sup>, she had been directed as what to do and they (planning board) had approved her request. She said she now has to go to the code enforcement officer, with whom she is having an issue, and doesn't feel she could have a professional relationship with him, because she feels she is being harassed. She feels this is selective enforcement, and the selectmen hired him. She said townspeople have brought unresolved issues to them, and these issues are affecting her livelihood and stressing her out.

Chairman Hatch stated that Laurie had two issues, her perception of selective enforcement and off-site sign issues. Laurie replied that is one thing; the other issue is that she feels townspeople are being placated, and things are not being handled.

**Corners Library** – Phyllis Buchanan said they had the door replaced on the library and the rot fixed, where there had been carpenter ants. There was a question as to whether the spray that the contractor had used was sufficient, or if they should hire an exterminator. Ernie Hudziec asked if the town had a section in the budget for maintenance of town buildings. He was told it was within the individual budgets, so the libraries would be inclusive of each library's budget. Mr. Hudziec asked when the last time the budget had been increased; no one was sure when it was last increased. Chairman Hatch said the trustees of the library should request an increase when they submit their budget request.

There was concern about the lack of funds to meet the operational expenses of the library. The lack of a phone at the library was also a concern, especially since many of the volunteers are senior citizens. It was explained the trustees would have to work that into their budget.

Mr. Hudziec asked if there is an audit policy that donations made to any town department be kept separate from the budget. Tim will check with the auditor.

**Snowmobile Club Appropriation** – Brenda Currier asked if the money appropriated for the snowmobile club had been sent. Tim replied that it has to be requested in writing. Brenda said she would make the request in writing.

**Dealings with Boards** - Mr. Wilkens said that at one of the first meetings he had attended, Rachel had stated that the Selectmen had not hired the code enforcement officer, but after researching it, and coming back to another meeting, it was admitted that they do hire the building inspector, but they couldn't overrule him. Rachel said she doesn't remember that. Mr. Wilkens said these are the types of things they deal with when they come before the boards asking for permission to do things with their own property, and the boards become more and more hostile. He felt they shouldn't have to prove they have a right to do things. Whatever board they are before has to prove that they don't have the right to do it.

**7:30 p.m.** – Chairman Hatch closed public input.

### **Recycling Issues**

**Mandatory Recycling – Pay-per throw** -Recycling Manager Justin Leavitt stated that he had been asked to get information on Pay-as-you throw and mandatory recycling. He stated that according to the State, the governing body of a town could enact either a pay-as-you throw or a mandatory recycling program at any time without having to get the approval of the residents. He said they recommend that if a town does a pay-as-you throw program they get the vote of the people, but law does not require it. The reason for approval is the financial aspect of it.

Justin said that of 225 towns in the state, 112 have mandatory recycling, 45 have pay-per-throw, and 68 are voluntary. He said there are many more towns looking into pay-per-throw, but he said there are articles pushing for statewide mandatory recycling.

There was considerable discussion about the need to enact one or the other program this year. Justin stated that the compactor is three quarters of his budget, and the tipping fees are supposed to go up next month. Justin said recycled items, excluding what he shipped out today and the money for the scrap metal pile, had generated just over \$11,000. Justin said that including the items for which there is a charge to dispose of, the amount would be \$36,400; this is with only 18% of the people recycling. The cost of bags for pay-as-you throw, traffic issues if we had mandatory recycling and the possible need for another container and additional employees at the center was also discussed. Chairman Hatch felt they should bring forward the pay-as-you-throw program on a warrant article.

**MSW (Household Waste)** – Justin said he had saved \$4,000 from October 1<sup>st</sup> to the end of the year by switching to Best Way for our C&D, and has a chance to save some off the MSW if we switch to Best Way from Waste Management. He said he would save \$10 per haul, which is about \$120 per month. He said we could purchase a 53-yard container, which would be hauled for \$145 opposed to \$190. He said this is because it would be a one way haul, where they would pick up the container, replace it, and bring the full container to their facility, empty it and leave it there until the next haul. The \$190 is to bring the container down, empty it, and bring it right back; we would need to buy



one container. He said the savings on the hauls would amount to about \$9,800 a year. There was a brief discussion on the price of a new container; a 53-yard container would cost \$7,600. He said we would also save because right now he is only utilizing ½ to ¾ of the container, and Best Way is willing to come when he needs them, compared to Waste Management, who has a set time to come.

Justin asked if the Board was willing to switch to Best Way for the rest of the year. The Selectmen agreed to go to Best Way for the remainder of the year for the \$190 haul, which would save \$10 per haul. The Selectmen approved his request, but asked Justin to see if the \$145 and \$190 prices would hold for a while.

**Mary Butler Lane Site Walk** - Chairman Hatch said she had read in last week's minutes that the Selectmen would do a site walk of Mary Butler Lane, and a formal motion and conditions would be made next week when the full board is present, and after a site walk is done to determine the condition of the road. She said they had done the site walk on Saturday.

Selectman Abbott asked if the motion had been drafted. Lois replied that a motion had been drafted, but it was decided that the motion should be redrafted after the site walk to enable them to put stipulations in. Selectman Abbott asked if she had that information. Lois went to get the information.

Chairman Hatch said she and Don had talked on the site walk about the Board's conversation last week, when she hadn't been present. She said she had mentioned that they would need to put specific stipulations, because she didn't want any members of the public to assume or guess that they are opening up building on Class VI roads; in this instance, it is not the case. She said this lot has sufficient frontage on Class V road, and would be used as access to the Gordon's driveway only. Rachel said she would like the fire chief to do a site visit and make the decision that he has adequate turn around for fire trucks.

**MOTION – Selectman Abbott moved to allow Michael and Yvette Gordon to continue to use Mary Butler Lane as access to their property on Allens Mill Road contingent on signing of a Waiver of Liability, there is to be no further improvement of Mary Butler Lane without consent of the Board of Selectmen; also the driveway access is to remain in its current location. This approval is due to the fact that this particular piece of property has the required frontage on a Class V road to enable them to build on their property. It is also contingent on approval of the fire chief that he can safely turn a fire truck around. The driveway access is for a single family home and the driveway is to stay in its current location, which is 310' in on Mary Butler Lane from the right of way where Mary Butler Lane intersects Allens Mill Road. By law, a driveway is a driveway; there is a driveway there, and it was not lost by attrition or abandonment; it came with the parcel of land, not the owner.**

Selectman Guarino seconded the motion. Motion passed 3-0.

**Construction Committee – Life Safety Building** – Selectman Abbott asked if a notice had gone to the papers regarding the life safety building construction committee, and if so, what papers. Tim replied that it have been in the Laconia Daily Sun and the Citizen. It hadn't been in the Suncook Sun because we couldn't get it to them in time.

**H1N1 Flu** – Selectman Abbott noted that they had talked briefly about the H1N1 in the workplace, and suggested that all offices that have the public regularly coming in should have bottles of Purell on the counters. She said KG had been going to check into the possibility of having masks available at the door, if anyone wanted to use them.

**Use of Town Buildings** – There were a couple of requests for permission to use the Academy Building for functions. One was for a baby shower, the other for Reike classes. In both instances, there had been a request for waiver of the fee for the building. Fees are routinely waived for non-profit and charitable organizations, but not for others. An exception was to be made for the Reike classes because donations would be going to the Gilmanton Food Pantry, but the fee will not be waived for the baby shower.

There was a fairly lengthy discussion on the use of buildings, and whether or not persons renting the building should be required to purchase liability insurance. Tim stated that people could purchase liability insurance for one day. Tim will check with LGC. Chairman Hatch asked that she be given a copy of the building use policy.

**Hazardous Waste Disclaimer** -Tim asked Chairman Hatch to sign a statement that we don't know of any hazardous waste on the parcel of land that Ann Bartlett and her husband wish to have a conservation easement put on. Tim said we don't know of any hazardous waste.

**Contract Planner** - Tim said he had received a contract for the “as-needed” contract planner that he had forwarded to Town Counsel. He said they had a couple of questions, would modify the contract, and get it back to us.

**Health Insurance** – Tim reported that the health insurance would be increasing 16.4%, the dental insurance would increase 5.5 % and short-term disability 3.1 %. There is no increase on life or Long-term disability. He stated that he has heard from an insurance company that would like to bid on the insurance. There was considerable discussion about ways to save on the cost of insurance, such as higher deductibles and co-pays, and mail-in prescriptions for a three-month supply of medications.

**3<sup>rd</sup> Driveway – Recycling Center** – Tim informed the board that last Thursday, he, Chief Lockwood and Justin Leavitt had attended a preliminary hearing with Kathleen Mulcahey-Hampson, Hearings Examiner for Department of Transportation, and an attorney from the Attorney General's Office, who will be arguing why we shouldn't have

a third driveway at the recycling center. Tim said it was a good meeting, and the attorney agreed to come do a site walk, which they don't usually do. Tim thought it sounded like they might suggest closing the second driveway we currently have, and move the entrance to the lower level.

There was a brief discussion on moving the driveway location, which wasn't felt to be a good idea. There will be another hearing, and they (DOT) want only one representative from the town to speak. It was agreed that Chief Lockwood should be the one to speak.

**Town Plowing – Sawyer Lake** – Tim stated that while Deb Cornett had been doing some research for the Sawyer Lake Village District, she had found that in 1977 certain roads had been voted in to be maintained by the Town. Tim had a map on which he had highlighted the roads we currently maintain, and the ones that had been voted to be maintained in 1977. There was considerable discussion on these roads, and our not plowing them for all these years. Selectman Guarino stated that if we plow a road for five years, we become responsible for it, and wondered if the reverse would fall under the rule that if a road is not maintained for five years, it reverts for a Class VI status. These rules pertain to private roads, so it was unsure if that rule applied. Tim said he had contacted LGC, but had not yet had a reply.

**Independent Appeals Board** – Tim stated that there had been concern last week as to whether the town should have an independent appeals board. He said the building (BOCA) code we adopted says we should, and Town Counsel was under the opinion we should have one, although they know of no other town using these codes who have one. Tim said Town Counsel would check into it further, and get back to us.

**Class VI Road Policy** – Selectman Abbott asked if Town Counsel had gotten back to us regarding the Class VI road policy. Tim replied that they are still working on it, but right now they see no reason to change their version of the policy. Selectman Guarino asked if we had sent Town Counsel's revised version of the policy to LGC. Tim said we had not; LGC will only give an opinion, they would not tell you if this is a policy we should have. We had sent a copy of the Town's original policy to LGC, and they had indicated it wasn't their purview; we should consult our own Town Counsel.

**Approval of Minutes** – The Selectmen reviewed the minutes of the last two meetings.

**MOTION – Selectman Guarino moved to accept the minutes of October 19, 2009 as amended. Selectman Abbott seconded. Motion passed 2-0. Chairman Hatch did not vote, as she had not been present at the meeting.**

**MOTION – Selectman Abbott moved to accept the minutes of the October 8, 2009 work session as amended. Chairman Hatch seconded. Motion passed 2-0. Selectman Guarino did not vote, as he had not been present at the meeting.**

**9:07 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.

**9:26 p.m. – Out of Non-Public Session**

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

**Wilkins Property** – Chairman Hatch stated that she would like to discuss the Wilkins property. Selectman Guarino asked to be recused from the Board for this discussion.

Chairman Hatch said she felt that during public session, some items had been brought up by the Wilkins for which she wanted answers from Don, but she couldn't get because Don was in the capacity of Selectman. Chairman Hatch told Selectman Abbott that she would like Don to answer those questions because she had told Mr. Wilkins that she would follow up. Selectman Abbott agreed Don should answer the questions.

Chairman Hatch asked Don if work was still being done on the barn. Don said they are just painting right now. Chairman Hatch asked if most of the renovations had been done. He replied they have been for this year.

Selectman Abbott pointed out that when Mr. Willard had Rachel read from the RSA he was referring to situations when there are questions regarding ordinances, but was not addressing issues that address the building code; they are two different things. Apparently the building code says there is no standing board that has power to interpret the building code and determine whether the code enforcement officer has incorrectly interpreted the building code, and you need to set up a committee of professionals who are familiar with, and work with the building code to make that determination. The ZBA does not have the power to do that. She said that RSA spoke to the ZBA having the power to make determinations over ordinances, not over building codes, and that is a clear distinction.

Tim stated that according to the building code, Section 112 .1 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.”

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.”

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.”

Chairman Hatch asked if we could utilize the State’s board. Tim said he didn’t think the State had a board. Bob was supposed to have checked to see if the State has a board.

Tim said the way he is interpreting the code is a board would be made up of independent contractors from the area that would make a decision as to whether a permit was needed. He said Jay Whitelaw from Town Counsel’s office, said from this law, it would appear we should have an appeals board, but she knows of no other town in the state that has one, and they all go by these codes. She was going to check with other attorneys to see if they had heard of an appeals board strictly for the code.

Chairman Hatch asked Don if he had talked to LGC about this. Don replied that he had spoken with LGC, originally, when it had seem there was a problem, and LGC had asked if the town had adopted the 2006 BOCA Code. When told that we had, they said that was the law.

Selectman Abbott stated that it appeared pretty clear, and maybe other towns had not had this sort of question of codes opposed to ordinances. She also said that it was hard for her to believe that Chairman Hatch ever said she didn’t know who had hired the code enforcement officer. She said they have, from the beginning said they couldn’t overrule the code enforcement officer, but that is different from hiring and firing him. They couldn’t overrule either the ZBA or the code enforcement officer. Chairman Hatch said she is going to speak with Bob Flanders about the ell on the Henderson’s house, and the 30-day appeal period for the Wilkens barn.

Selectman Guarino rejoined the board.

Rachel said she also would like, when they are doing the budget, for the board to consider reinstating Bob’s hours. There was a brief discussion on the need to reinstate Bob’s hours. Tim stated that Bob’s schedule is booked with inspections. The Selectmen stated that if an issue arises at their meeting on Monday, there is only Wednesday for them to speak with Bob, and they couldn’t always do that; there is not time for him to follow up on code issues and return all his phone calls. It was also stated that contractors had found Bob very accommodating trying to get his inspections done, and contractors have been

concerned that with just two days, their projects are getting held up, which cost the homeowners and the contractors.

**Budget Increases**

**Library** – Selectman Hatch was concerned from statements made at public input, that members of the Corners Library had quite understood the budgeting process. She said she had gotten the impression that they were not covering their expenses, where it is their responsibility to include these items in their budget requests. Rachel asked Tim to schedule a time on next week's agenda to discuss this.

**Employee Raises** - The Selectmen discussed Chief O'Brien's request to reconsider their decision to not grant any raises next year.

After a lengthy discussion, the Selectmen agreed to ask department heads not to exceed more than a 2% over this year's operating budget, and the Selectmen would add a separate line item for a COLA increase for employees.

**MOTION – Selectman Abbott moved to recommend a 1% COLA salary line increase for all employees.**

**Dinner** - Chairman Hatch informed the Board that the 22<sup>nd</sup> Annual Municipal Volunteers Award Dinner, sponsored by LGC would be held in Manchester on November 18<sup>th</sup>.

Respectfully submitted,

Lois Dionne  
Recording Clerk

