

**GILFORD BOARD OF SELECTMEN'S MEETING**  
**August 14, 2013**  
**Town Hall**

The Board of Selectmen convened in a regular session on Wednesday, July 24, 2013, at 7:00 p.m., at the Gilford Town Hall, 47 Cherry Valley Road, Gilford, NH. Selectmen present were Kevin Hayes, John O'Brien and Gus Benavides. Also present were Town Administrator Scott Dunn and Executive Secretary Sandra Bailey.

Staff members in attendance included Finance Director Geoff Ruggles, Director of Public Works Sheldon Morgan, Fire Captain Rick Andrews, Town Clerk/Tax Collector Denise Gonyer, Building Inspector/Code Enforcement Officer Dave Andrade, Police Chief Kevin Keenan, Police Lieutenant Kris Kelley and Police Lieutenant Jim Leach.

1. **Pledge of Allegiance** – The Selectmen recited the Pledge of Allegiance.
2. **Summer Town Forum – 6:00 p.m.** – (separate minutes)
3. **Announcements/Presentations**
  - 3.1. Chairman Hayes announced that the Timberman Triathlon will take place on Saturday and Sunday, August 17 and 18, 2013, and the public should expect some traffic delays during that time.
  - 3.2. Gilford Old Home Day is scheduled for Saturday, August 24, 2013, with the parade commencing at 10:00 a.m. Further information is available on the Town's website.
4. **Appointment(s)**
  - 4.1. **Timberman Triathlon Race Officials** – Audra Tassone-Indeck reported that the event has sold out this year. She added that she has just learned that the event has raised over \$180,000 for the Make-A-Wish Foundation. She thanked the members of the community for the support that the Timberman Triathlon receives.
5. **Review/Approval of Minutes**
  - 5.1. Selectman O'Brien moved to approve the minutes of July 24, 2013, as presented. Selectman Benavides seconded. Motion carried with all in favor.
6. **Consent Agenda**
  - 6.1. Selectman O'Brien moved to approve the previously signed items for the period July 22, 2013 through August 9, 2013, as listed. Selectman Benavides seconded. Motion carried with all in favor.

<b><u>DOCUMENT DATE</u></b>	<b><u>DOCUMENT</u></b>	<b><u>MAP/LOT #</u></b>
04/01/13	Change of Status - Aselton	
05/02/13	Change of Status - Proulx	
05/18/13	Change of Status - Beaulieu	
06/01/13	Change of Status - Ainsworth	
07/11/13	Payroll Register	
07/12/13	Change of Status - Crisp	
07/16/13	Abatement - Bogursky	225-005.002
07/16/13	Abatement Denial - Blazar	243-037.000
07/16/13	Payroll Register (2)	
07/18/13	Release of Lien - Amann	203-163.000
07/18/13	Payroll Register	
07/19/13	Yield Tax Levy 2013 (2)	various

07/20/13	Change of Status - Mercuri	
07/21/13	Change of Status - Dalton	
07/21/13	Change of Status - Chase	
07/22/13	Payroll Register	
07/23/13	Payroll Register	
07/23/13	Accounts Payable Manifest	
07/23/13	Change of Status - Horton	
07/25/13	Elderly Exemption - Griffin	203-100.000
07/25/13	Elderly Exemption Denial - Smith	213-013.048
07/25/13	Veteran's Exemption - DeBlois	202-028.000
07/25/13	Application for Reimbursement to Towns & Cities	
07/27/13	Change of Status - deSousa	

## 7. **Public Hearings**

**7.1 Kimball Castle Cy Pres Petition** – Chairman Hayes stated that the purpose of this hearing is to receive input from the public on proposed changes to the covenants on property owned by David and Mary Jodoin, known as Kimball Castle Properties, LLC.

At this time, Sandra McGonagle, Chairperson of the Kimball Wildlife Forest Committee, came forward and offered a brief history of the property. She stated that when she joined the Board of Selectmen in 1978, the Board became aware of the state of disrepair of the Kimball Castle, causing a great deal of concern. Through research, they determined that Charlotte Kimball had bequeathed \$400,000 to a trust for wildlife preservation of the property, as well as for upkeep of the various buildings on the property. Unfortunately, these funds disappeared, so the Town made a request of the Charitable Trust Division of the Attorney General's Office to take over ownership. As a result of the 1980 Town Meeting, the Town assumed ownership of the Castle.

It became clear that the Town was not interested in investing money into the Castle, so the Board of Selectmen was empowered to look into a solution. With the assistance of various agencies, a master plan was formulated to restore the Castle and adjacent buildings by a private party. The remaining land was designated as an area for wildlife preservation. In 1999, the property was subdivided, with the Town looking into how to carry forward the wishes of Charlotte Kimball for wildlife preservation, while the Castle and 20 acres was sold to Historic Inns of New England.

The adjacent land became known as the Lockes Hill Trails, overseen by the Kimball Wildlife Forest Committee. At this time, it is estimated that approximately 600 hikers per week visit the trails during the summer and fall months. As a result, the Town has honored the wishes of Charlotte Kimball for a wildlife reservation; however, the Castle continues to be in disrepair. The Kimball Wildlife Forest Committee respects and understands what the Board of Selectmen has done to address some of the needs of the Castle, all while being under private ownership. In addition, there are constraints brought about by the Charitable Trust Division.

As far as access is concerned, access to the Forest has been established on the easterly side, giving them total access to all trails. However, they are still interested in establishing a westerly access and do not want to relinquish their easement over the Castle property. She added that the KWF Committee has worked closely with the Meadows Committee to establish a working relationship with the Carye family to extend the trail from the Meadows to the Forest. She cited both completed and proposed Eagle Scout projects that have assisted in the development of the trail system. In closing, she emphasized the importance of maintaining a westerly access.

Selectman Benavides appreciates the emphasis Sandra McGonagle placed on the fact that the Town of Gilford does not own the Castle and it is under private ownership. She then added that the Committee anguished for many years at having to give up the Castle and 20 acres of land.

However, the Town has always made it very clear that it would be very difficult for the Town to spend the funds necessary to restore the Castle. The present owner of the Castle was very aware of the conditions of the agreement he entered into upon purchasing the Castle.

David Jodoin acknowledged that he has been working with Sandra McGonagle for 14 years now regarding the Castle property. He clarified that he and his wife did not purchase the property, but acquired it. He pointed out that the trust established by Charlotte Kimball does not even mention the Castle, only the wildlife forest. The best plan that the Town came up with, at that time, was to divide the Castle property from the forest property and sell the Castle property for commercial development, in order to return the lost funds for the upkeep of the wildlife preservation.

He continued, stating that Historic Inns of New England, who sought out investors, was not able to carry out the plan. In addition, there is a mortgage that runs with the land, and that money goes towards the upkeep of the trail system in the forest. Part of the agreement with Historic Inns was to enable access to the proposed bed and breakfast, there would be an easement for a quarter mile road to be built across the conservation land for commercial access to the property. They also allowed Historic Inns the ability to construct cross country ski trails on the west side of Lockes Hill.

Mr. Jodoin continued, stating that he and his wife were interested in being investors and saving the Castle. They became partners in the LLC and supplied the funds for Historic Properties to purchase the property from the Town. Unfortunately, no other investors came forward and they were unable to carry out their plan. Two years later, one of the partners became ill and passed away, resulting in the other partner dissolving the company. Since the Jodoin's investment was secured by the land, they received the Castle property in return for their original investment.

Mr. Jodoin stated that he appreciated the time he lived on the property and was a resident of Gilford. Approximately ten years ago, they attempted to secure a buyer for the Castle, but have not been able to do so. It appears to be economically infeasible to restore the Castle. As a result, they are now looking to sell the land. He added that Building Inspector David Andrade has deemed the Castle to be a safety hazard. The proposed Cy Pres is to remove the condition that the property must be a bed and breakfast. In addition, he would like to remove the stipulation for the quarter mile road and cross country ski trails to be built on the conservation land. In exchange, he would like to have the public easement to the conservation land, which runs across the Castle property, changed. Mr. Jodoin thinks that there are other options available for a westerly access than the Castle property.

However, he continued, recognizing the need for emergency vehicles and maintenance to the Airport's safety beacon, he would like to modify the easement for these purposes only. Because it is no longer feasible to restore the Castle, he would like to modify the deed so that the next owners of the property will be able to have quiet enjoyment. Shawn Bailey, a realtor from Coldwell Banker Laconia, emphasized the difficulty in marketing the property because of the condition of the Castle.

Building Inspector/Code Enforcement Officer David Andrade stated that he has photographs with him if anyone would like to see the extent of the decay of the Castle. The property is a hazard and the Castle needs to be removed. He further stated that the roof of the carriage house is totally caved in and dangerous to trespassers.

At 7:35 p.m., Chairman Hayes opened the hearing for public comment.

Carol Anderson of 45 Cottonwood Trail stated that she has respect for everything that has happened so far with the Castle, but when it was announced that the Castle would need to be

demolished, a small group of interested citizens met and discussed would could be done so that the Castle would not have to come down. They realize the historical value of the Castle and are willing to raise funds for a fence, so that the site can be maintained as ruins.

Sumner Dole of Canterbury stated that he has been involved with the Kimball Wildlife Forest since 1980. Until 2007, he served in his capacity as Belknap County Forester. He emphasized that the comments he will make tonight are his own personal opinions. He further stated that he was alarmed with the petition and thinks that the restrictions should be left in place. At the time that the Castle was sold, it was made clear that it it be restored. This is why it was sold at such a reduced rate.

Mr. Dole stated that the Castle walls were bulging back in 1980 and he thinks that a fence should have been erected around it many years ago. He also expressed the opinion that the owners did not make a lot of effort to save the Castle and they would now like to get off the hook without any penalty or consequences. Mr. Dole reviewed some history of the development of the trails and then detailed the reasons why he thinks that the easements should be left in place, allowing full access, and that the Board of Selectmen is in an excellent position to correct problems.

Mr. Dole further stated that earlier this year, the Board of Selectmen voted to not relinquish the Town's easement on the Castle property. He added that this was the recommendation of the Kimball Wildlife Forest Committee and he appreciates how the Board voted. Further, he stated that the language of the location of the right-of-way is very unclear and should be exactly specified.

In closing, he thinks these issues are vital in meeting the requirements of the wildlife preservation trust, particularly maintaining full public access. He also thinks that the action taken by the Town to either erect a fence or tear down the Castle should be enforced immediately.

Selectman Benavides asked Sumner Dole if he was against the sale of the Castle to a private party. Mr. Dole responded that he did have some reservations, but it was the only viable option at the time. Selectman Benavides further asked if Mr. Dole was aware of any purchase and sales agreement or deed that specified that the Castle must be restored. Mr. Dole replied cited a document stating that restoration of the Castle should be in accordance with the Plan of Bear Isle Properties, dated 1991.

Selectman Benavides then asked Mr. Dole his opinion of what should happen to the Castle next, to which he replied that the Castle is dangerous and that needs to be addressed. Mr. Jodoin is under a directive from the Town to either demolish the Castle or erect a fence around it. When asked how the price of the Castle was established, Mr. Dole replied that it was a negotiated amount between the interested parties, based on the cost of restoring the Castle and building the road.

Selectman Benavides asked Mr. Dole if he was in favor of converting the Castle into one single-family residence. Mr. Dole replied that it would be consistent with Charlotte Kimball's residence. Selectman O'Brien then read from the easement granted to the Airport Authority by Charlotte Kimball in 1951. Mr. Dole thinks that this language only refers to the lines, not specifically utilizing the driveway or carriage road. David Jodoin clarified that he is willing to specify a 20 foot right-of-way that follows the driveway and carriage road for access to the airport beacon.

Victor Nicolas of 55 Farmer Drive stated that in his opinion, a lot of "best decisions at the time" have been made on this property, although the Town has done nothing to help the Castle. As a resident of Gilford, he thinks that the time has come to step up and do something for the Castle.

It is an important part of Gilford's history. Mr. Nicolas agrees with erecting a fence and letting the castle decay as nature intended. He also suggested that the Town might buy back the Castle through fundraising and indicated that this situation has shed a negative light on the residents of Gilford.

Linda Phelps, a resident of Meredith Center Road in Laconia, stated that she previously lived in Gilford and has many fond memories of the Castle. She would like to find a way to preserve and maintain the Castle. Brian Phelps also has ties to Gilford and thinks a fence should be erected, being supported by fundraisers throughout the year.

Sarah Anderson of Cottonwood Trail stated that the demolition of the Castle would be a loss to future generations. She pointed out that Castle in the Clouds was saved, with much of their funds coming from admission fees from visitors. She agrees that the property should be fenced in and speculated that grant money might be available for the preservation. If the Castle is not restored, it would at least be there as ruins for future generations to see.

Rebecca Ekholm, who owns a family home on Welch Island, is very distressed to think that her children will not be able to show the Castle to their children, as she has been able to do when out on the lake. She suggested passing a bucket on Old Home Day for the preservation of the Castle and stated many citizens are willing to donate their time to help the cause. Selectman Benavides reminded her that the Town does not own the Castle and as residents of the Town, the Board members share her same concerns. Ms. Ekholm suggested that the Town re-purchase the Castle for the same price at which it was sold and make it accessible to the public.

Bill Bickford of 29 Lockes Hill Road does not think that the Castle should be demolished. He reiterated that there is citizen support for the purchase and installation of a fence.

Steve Nix of Riley Road stated that he has reviewed numerous public documents regarding the Castle and provided revenue stamp data for the real estate transactions in 1999 and 2001. He pointed out that the Town now owns rights to the Castle property and it is important for them to negotiate with Mr. Jodoin. He also stressed the importance of looking at the value of the property and rights associated with it.

Mr. Nix stated that a bad investment was made in the purchase of the property, but it does not mean that the Town should give up their rights. He does not agree with giving up the rights of access to the hiking trails.

Steve Davis of Lockes Island believes that financial support for the Castle is lacking because of the fact that it is "hidden". His proposal would separate the land from the building by tearing down the Castle and re-building it on "The Witches", where it could be easily seen. He recommends taking only the four walls and not having a roof on the structure. He encouraged the Board to seek private sector funding for this project.

Jonathan Carlson of Scenic Drive stated that the wishes of Charlotte Kimball have not been met. The owners of the property failed to restore or maintain it. He thinks that the Town should uphold their part of the agreement and see that the Castle is restored. He further stated that he is appalled that the Town is a party to this litigation. He thinks that the Castle should not be removed and left as it is to let nature take its course.

David Jodoin then reviewed some of the extensive and costly maintenance work that has been completed on the Castle and adjacent buildings while under his ownership. He stated that although the erection of a fence sounds like a solution, he does not think it will deter the constant vandalism that takes place.

Randy Frye of 15 Dow Road applauded the efforts of the citizens that are willing to fundraise so that a fence can be erected around the Castle. However, he has a concern with this because he thinks that this is something that the owner should have done a long time ago. If the people of Gilford are willing to fund and erect a fence around the Castle, Mr. Frye thinks that the Castle should belong to the citizens of Gilford and the Town should buy it back.

Everett McLaughlin of Belknap Mountain Road inquired about the sale price of the property. David Jodoin responded that the property is on the market for \$799,000 and as a result, he will be losing money. He suggested that some of the stones could be retained and a small replica or monument of the Castle could be built on Lockes Hill, in honor of Charlotte Kimball.

Chairman Hayes closed the public hearing at 8:48 p.m.

**7.2 Ambulance Service Fee Schedule** – Fire Captain Rick Andrews provided an explanation of the proposed changes to the Ambulance Service Fee Schedule, which involve the way it is structured. The Department currently bills for ambulance costs using an ala carte format, with a base rate and major treatments added to the bill. The proposal is to utilize a structure known as “bundling”, which will assist the Town in being compliant when Obamacare is fully implemented. It will also make the billing more compatible with Medicare.

Captain Andrews stated that the proposed changes will not result in higher fees for services, but rather will consolidate fees into the bundled format. He pointed out that the standard for Basic Life Support Services is generally the Medicare allowance, plus 50%. The Department does not anticipate significant changes in ambulance revenues, nor will they decrease.

Chairman Hayes opened the public hearing at 8:57 p.m. There being no comments from the public, he closed the hearing at 8:57 p.m.

Selectman O’Brien moved to approve the revised Ambulance Service Fee Schedule as presented, to be effective September 1, 2013. Selectman Benavides seconded. Motion carried with all in favor.

## **8.0 Old Business**

**8.1 Town Hall Renovation Project** – Selectman Benavides moved to accept the low bid of PRB Construction at the amended contract price of \$344,000 and to authorize the Town Administrator to enter into a contract to proceed. Selectman O’Brien seconded. Motion carried with all in favor.

**8.2 Route 11-A Speed Limit** – The Board concurred to table this matter until the DOT speed limit study is completed.

**8.3 Cable TV Advisory Committee** – Selectman Benavides moved to permanently table this matter. Chairman Hayes seconded. Motion carried with all in favor.

## **9.0 New Business**

**9.1 Credit Card Payments – Town Clerk/Tax Collector’s Office** – TC/TC Gonyer provided the Board with an overview of her proposal to allow credit card payments for taxes and other fees. Selectman Benavides moved to allow the Town Clerk/Tax Collector to accept credit card payments as requested, effective January 1, 2014. Chairman Hayes seconded.

Selectman Benavides supported the proposal and thinks that this will help with the efficiency within the TC/TC Department. Selectman O’Brien stated that he thinks the fee being charged for payment of property taxes is horrendous. Brief discussion ensued regarding the freedom of

choice available to property owners if they choose to pay their property taxes with a debit or credit card. Motion carried with all in favor.

**9.2 FY2014 Budget Review Schedule** – The Board concurred to conduct their day-long 2014 Budget Work Session on Wednesday, September 25, 2013, and that Department Managers be directed to follow the same guidelines as in years past, by level-funding the budget as much as possible.

**9.3 Primex Contribution Assurance Program (CAP) for FY2015-2017** – Selectman Benavides stated that he thinks that this coverage should go out to bid. Chairman Hayes agreed. Following brief discussion, the Board concurred to take no action on the proposed agreement with Primex.

**9.4 Request for Commemorative Name – Moulton Pond** – Chairman Hayes briefly explained the nature of this request. Conservation Commission member Everett McLaughlin stated that he was in favor of naming it Roberts Pond. Selectman O'Brien stated that the Town should be the party that names the pond.

Selectman Benavides moved to recommend the name, Roberts Pond. There being no second, the motion did not go forward.

Selectman O'Brien moved to write a letter indicating that the Town of Gilford would like to name the pond. There being no second, the motion did not go forward.

No action was taken by the Board.

**9.5 Request for Funding – Milfoil Removal** – Selectman Benavides moved to approve the \$13,500 funding request for milfoil removal from account #4611-524, with a copy sent to the Conservation Commission. Selectman O'Brien seconded. Motion carried with all in favor.

**9.6 Live Entertainment License Application – Contigiani's Catering (Timberman Triathlon – Ellacoya State Park)** – Selectman Benavides moved to approve the live entertainment license for Contigiani Catering at Ellacoya State Park on August 17 and 18. Selectman O'Brien seconded. Motion carried with all in favor.

**9.7 Pawnbroker & Secondhand Dealer Application – Capital City Pawnbrokers** – Selectman Benavides moved to approve the pawnbroker and secondhand dealer license for Capital City Pawnbrokers, Inc. for the period August 1, 2013 through July 31, 2014. Selectman O'Brien seconded. Motion carried with all in favor.

**9.8 Appointment to LRPC – Scott Dunn** – Selectman Benavides moved to reappoint Town Administrator Scott Dunn as a Lakes Region Planning Commissioner. Selectman O'Brien seconded. Motion carried with all in favor.

**9.9 Appointments to Kimball Wildlife Forest Committee** – The Board concurred to table this matters so that terms of appointments can be staggered.

**9.10 Personnel Policy Amendments** – Town Administrator Dunn provided an explanation of some of the proposed changes to the Board. This matter will be brought forward to the next meeting for a vote by the Board, after a review by Town Counsel and distribution to Town employees.

**9.11 DPW Dump Truck Purchase** – Selectman Benavides moved to approve the purchase of a new Mack Dump Truck with accessories from McDevitt Trucks, of Manchester, NH under the

State Bid process in the amount of \$173,250 and to authorize the trade-in of unit #3 (a 1999 Mack RD690P) in the amount of \$10,000 for a new purchase price of \$163,250 to be paid using \$130,000 from account #4915-837 and \$33,250 from account #4902-737 in lieu of purchasing a used pick-up truck for the DPW mechanics. Selectman O'Brien seconded. Motion carried with all in favor.

**10.0 Public Input** – none.

**11.0 Selectmen's Issues** – Chairman Hayes announced that a Medical Drug Box is now available in the Town Hall Lobby. He also expressed concern with the noise level at Meadowbrook, since he is receiving many complaints. He stressed the importance of receiving sound reports on a timely basis.

**12.0 Administrator's Report** – Town Administrator Dunn advised the Board that a citizen recently came into the Town Hall and offered to donate a wood stove for the Warming Hut. The Board concurred that they would not be utilizing a wood stove inside the Warming Hut.

**13.0 Next Meeting** – Wednesday, August 28, 2013 at 7:00 p.m. at the Town Hall

**14.0 Adjournment** – With no further business before the Board, the Board of Selectmen's August 14, 2013 meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Gus Benavides  
Clerk