

GILFORD BOARD OF SELECTMEN'S MEETING
October 26, 2011
Town Hall

The Board of Selectmen convened in a regular session on Wednesday, October 26, 2011, at 7:00 p.m., at the Gilford Town Hall, 47 Cherry Valley Road, Gilford, NH. Selectmen present were John O'Brien, Gus Benavides and Kevin Hayes. Also present were Town Administrator Scott Dunn and Executive Secretary Sandra Bailey.

Staff members in attendance included Finance Director Geoff Ruggles, Town Clerk/Tax Collector Denise Gonyer, Fire Chief Steve Carrier, Police Chief Kevin Keenan, Sergeant Jim Leach and Sergeant Kris Kelley.

1. Non-Meeting – 6:00 p.m.

- 1.1. Consultation with legal counsel [per RSA 91-A:2, I, (b)]
- 1.2. Strategy or negotiations with respect to collective bargaining [per RSA 91-A:2, I, (a)]

2. Pledge of Allegiance – The Selectmen recited the Pledge of Allegiance.

3. Announcements/Presentations

- 3.1. Chairman O'Brien read aloud the rules of the meeting regarding public comment.
- 3.2. Chairman O'Brien read aloud a portion of a proclamation for Eagle Scout Eric Berghahn.
- 3.3. Chairman O'Brien announced that a \$50,000 reward has been offered by the family of Bobbie Miller for information regarding her death.
- 3.4. Chairman O'Brien acknowledged and thanked Sue Leach for her recent donation of an aerial photograph of Governor's Island.

4. Review/Approval of Minutes

- 4.1. Selectman Benavides moved to approve the minutes of the Selectmen's regular session of October 12, 2011. Selectman Hayes seconded. Motion carried with all in favor.

5. Consent Agenda

- 5.1. Selectman Benavides moved to approve the previously signed items for the period October 11, 2011 through October 21, 2011. Selectman Hayes seconded. Motion carried with all in favor.

| <u>DOCUMENT DATE</u> | <u>DOCUMENT</u> | <u>MAP/LOT #</u> |
|----------------------|--------------------------------|------------------|
| 07/28/11 | Change of Status - Gagliardi | |
| 10/05/11 | NOITC - Bolotin | 266-009.100 |
| 10/05/11 | NOITC - Bolotin | 264-007.000 |
| 10/05/11 | NOITC - Bolotin | 266-007.000 |
| 10/12/11 | Letter of Appreciation - Coons | |
| 10/12/11 | Letter to LRMFA | |
| 10/12/11 | MS-1 (3) | |
| 10/12/11 | MS-1 Extension | |
| 10/13/11 | Abatement - McGinley | 210-010.002 |

6. Appointments

- 6.1. **Chief Steve Carrier – Fire-Rescue Department Update** – Fire Chief Carrier began by stating that two classes have been held at the Fire Training Center and while the response has been good, it takes a tremendous amount of work to return the facility to usable condition for the next class.

The Department has had some personnel changes over the past few months. Currently, there are two firefighter vacancies and the Deputy Chief vacancy. These positions have been advertised

and he is hopeful that they will be filled as soon as possible.

Chief Carrier provided an update on the progress of the Truck Committee, who are working on specifications for Engine 4. This truck will replace first line attack Engine 2, which has been in service since 1988, and it is anticipated that they will take delivery at the end of 2013. Engine 2 will then move into reserve status.

As far as maintenance issues are concerned, Ambulance 2 has electrical problems which DPW is trying to rectify and Engine 4 had some piping problems that DPW has been able to repair. In addition, Engine 2 and the tanker have had brakes repaired. Ambulance 1 is scheduled to go to New Jersey for 6-8 weeks for partial re-painting, and finding a loaner ambulance is being pursued. Fortunately, this re-painting is still covered under the original warranty.

The Department will host a traditional Thanksgiving luncheon for Town employees on November 18th and Chief Beland's retirement dinner is scheduled for November 19th.

Chief Carrier noted that year-to-date activity indicates that it is consistent with the same time period in 2010.

Selectman Hayes questioned why so much work is involved with restoring the training facility after class is held there. Chief Carrier responded that the sheetrock does sustain damage and replacing it is very labor intensive. Chairman O'Brien asked Chief Carrier if there are current bookings for the training facility, to which the Chief responded no, but they are not concerned because of time needed to complete the schedule for user fees.

The Board thanked Chief Carrier for his presentation and welcomed him to his new position.

- 6.2. Geoff Ruggles – Financial Update** – Director Ruggles reported that the budget has been tracking similarly to the previous months this year. Revenues slightly increased due to the lump sum payment of \$8,485 from the NH Retirement System, which was intended to offset the rate spike that occurred in July. Interest has ebbed on delinquent taxes as taxpayers have been paying off tax liens. Expenditures have tracked slightly lower than at the same time last year.

Director Ruggles then focused on the estimated 2011 tax rate. He advised the Board that the Town has been placed in DRA's tax rate setting queue, and rates are set in the order that each town enters the queue. He also indicated that if the tax bills go out late, there may be a temporary cash flow issue.

Director Ruggles proceeded to offer the Board with some options that would help offset the 1.4% valuation decrease and \$.98 total rate tax increase. Using an additional \$75,000 of the undesignated fund balance (Option A) would reduce the tax rate by \$.05 and using an additional \$150,000 (Option B) would reduce the tax rate by \$.10. He advised the Board of potential spiking of the tax rate if revenues or assessed values do not increase. As a result, he is looking for direction from the Board on using the undesignated fund balance towards the 2011 tax rate.

Selectman Hayes stated that he would like to look at the long term solution and leave the tax rate with a \$.98 increase for 2011. General discussion ensued on the impact this increase would have on a taxpayer with a home assessed at \$200,000. Chairman O'Brien inquired when DRA would have Gilford's tax rate set and Director Ruggles stated that Gilford is near the bottom of the queue because the information was sent to DRA at the beginning of this week. As a result, the tax rate could be set this week or early next week and Director Ruggles would like to be prepared to convey the Board's decision on the undesignated fund balance

Selectman Benavides expressed his concern for Gilford taxpayers by stating his wishes to save

dollars for them wherever possible. He also stated that the undesignated fund balance represents money that has already been paid by Gilford taxpayers. Following brief discussion, Board members agreed not to consider using \$150,000 of the undesignated fund balance. Selectman Hayes stated that he would not like to see any additional undesignated fund balance used to offset the tax rate.

Selectman Benavides moved to apply an additional \$75,000 of the undesignated fund balance towards the 2011 tax rate, in addition to the \$450,000 that has already been proposed. Selectman Hayes seconded. Motion carried by a vote of 2-1 with Selectman Hayes voting against the motion.

7. Old Business

7.1. Memorial Triangle –NH DOT Driveway Permit Denial – Town Administrator Dunn stated that he is recommending that the Board not move forward with the pending appeal of the driveway permit denial, scheduled for November 8th. Selectman Hayes asked Town Administrator Dunn to explain his position on the pending appeal, to which he replied that the Town does not need a driveway permit to move ahead with the project. The Town only applied for the driveway permit to be able to be heard on the plans to have the pole relocated and replaced by a flag pole. He further stated that he does not agree with the opinion expressed by Attorney O’Neill and believes that the Selectmen have the authority, under RSA 236:43, to install the flag pole on the property.

Town Administrator Dunn also stated that the matter of the driveway permit is almost a moot point because the long term goal, in addition to having a flag pole there, is to have a section of the road closed off to make it a “T” intersection. The process for accomplishing that is completely independent of the driveway permit process. In addition, the driveway permit pre-hearing afforded the Town the opportunity to have a discussion on the reconfiguration of the intersection and the creation of a park. Those two processes are moving forward, so there really is no need for the driveway permit. Town Administrator Dunn further stated that the hearing on the driveway permit denial cannot be used on any other matter than the driveway permit.

Selectman Hayes inquired how the Board would go forward with Attorney O’Neill’s letter to the Board, given that he has stated that the monument cannot be placed there even if the telephone pole is moved. Town Administrator Dunn replied that the Board could ignore Attorney O’Neill’s opinion and further, that the Town would have a very strong case if the matter were to be decided in court. Therefore, if the Town is successful in having a portion of the roadway abandoned, the Town’s authority to place the flag pole and monument there would be that much stronger.

Town Administrator Dunn further stated that in his opinion, the Town is not making any change within the right-of-way by removing a telephone pole and replacing it with a flag pole, and the Board of Selectmen have the authority to do so. In closing, one option is to decide if the Board wants to implement the provisions of RSA 236:43, for which a resolution has been drafted. Another alternative is to hold off on that and play out the process of the discontinuance. Once that is resolved, the Board can make a motion to have the flag pole installed.

Selectman Benavides moved to not go forward with the appeal of the driveway permit denial. Selectman Hayes seconded. Motion carried with all in favor. Town Administrator Dunn then advised the Board that he has been in contact with an engineer who has already surveyed approximately 75% of the area at the time that sewers were installed. This is helpful in that the State does want the Town to present a plan for the park and the estimated cost for the plan is approximately \$8,000. The plan will be included with a petition to the Commissioner of the Department of Transportation. The Board concurred to have Town Administrator Dunn

continue along in this manner.

- 7.2. **Alvah Wilson Bridge Rail Bid Results** – Town Administrator Dunn stated Director Morgan is ill and could not be here tonight. He reminded Board members that bids were solicited for this project but no proposals were received. He further stated that a proposal was received from Wolcott Construction, who has teamed with R.M. Piper, with a “not to exceed” figure of \$58,945.90. The money for this project is available in the Bridge Replacement Capital Reserve Fund, but the steel bridge rails will not be available until February 2012. The foundation work will be done before winter.

Selectman Benavides commented that although it is difficult to spend almost \$60,000 of taxpayer’s money without any other bid, he moved to accept the proposal from Wolcott Construction for the Alvah Wilson Bridge Rail at a cost not to exceed \$58,945.90, as presented, with the funding to come from the Bridge Replacement Capital Reserve Fund. Selectman Hayes seconded. Motion carried with all in favor.

- 7.3. **Kelsey’s at the Grant – Entertainment Permit Revocation** – Selectman Benavides began by stating that even though the Board has the authority in the Entertainment Ordinance to revoke this Entertainment Permit, he thinks that it should not be done this evening. Rather, he would like the owner of the establishment to be able to present their case and come before the Board at the next meeting. In addition, he would like the Board of Selectmen to be able to view that information so that they can make an informed decision based on the law and facts of the case. The Board concurred with this approach and scheduled a public hearing on the matter for Wednesday, November 9, 2011 at 7:00 p.m.

At this time, Attorney Matt Lahey, representing Hush Entertainment, thanked the Board for taking this action. He further stated it would be helpful for his clients if the Board were to prepare a written notice specifically outlining the allegations that they think justifies this revocation.

Attorney Lahey clarified that although he knows that there was a lot of commotion at the Mardi Gras last Tuesday night, he does not see justification for the revocation of the license. The management of the Mardi Gras is not responsible for individuals who sold drugs and he believes that in order for the Entertainment Permit to be revoked, that the Board must show a connection. Chairman O’Brien thanked Attorney Lahey and stated that the Board would take this recommendation under advisement.

8. **New Business**

- 8.1. **Acceptance of CIP – 2012-2017** – Selectman Benavides moved to accept the 2012-2017 Capital Improvement Plan as recommended by the Capital Improvement Planning Committee. Selectman Hayes seconded. Motion carried with all in favor.
- 8.2. **Gilford Village Knolls II – Payment in Lieu of Taxes Agreement** – Selectman Benavides moved to approve the renewal of a 5 year Payment in Lieu of Taxes Agreement between the Town and Gilford Village Knolls, Inc. as presented and to authorize the Town Administrator to sign the Agreement on behalf of the Town. Selectman Hayes seconded. Motion carried with all in favor.
- 8.3. **Approval of Fire-Rescue Job Descriptions** – Selectman Benavides moved to approve the revised job description for the Deputy Fire Chief and the new job description for an Administrative Assistant, as approved by the Fire Engineers on October 18, 2011. Selectman Hayes seconded. Motion carried with all in favor.

- 8.4. Replacement Retaining Wall on Stark Street – R.O.W. Permit** – Town Administrator Dunn stated that this is a fairly routine matter concerning the rehabilitation of an existing retaining wall at 228 Stark Street. Selectman Benavides moved to approve the Right-of-Way Permit for 228 Stark Street as presented. Selectman Hayes seconded. Motion carried with all in favor.
- 8.5. Tax Exemption Request – Wesley Woods** – Selectman Benavides moved to table this matter until additional legal opinion is received. Selectman Hayes seconded. Motion carried with all in favor.
- 8.6. Pole License Petition – Old Lakeshore Road** – Selectman Benavides moved to approve the pole license and petition as submitted, and to require the applicant to revise the drawing to more accurately depict the location of the poles. Selectman Hayes seconded. Motion carried with all in favor.
- 9. Public Input** – Gail Ober, a reporter from the Laconia Daily Sun, but not a resident of Gilford, asked for permission to address the Board. She stated that the Sun sent an inquiry to the Board earlier today and asked if the questions could be read into the record or if Town Administrator Dunn was going to address them as part of his Administrator’s Report. Chairman O’Brien stated that the Board will revise the non-public session minutes of October 18th and present them at the next meeting. Ms. Ober then asked if the rest of the questions would be read into the record. Selectman Hayes responded that they would not be addressing those questions.
- 10. Selectmen’s Issues** – Selectman Hayes stated that he was working in his office today when he saw the Town truck go by pounding in guideline stakes, so he knows that winter is coming.
- 11. Administrator’s Report** – Town Administrator Dunn stated that he received an e-mail from NHDES that indicated they would have a final decision on the matter of the Liberty Hill Waste Disposal Site within a week or two.
- Town Administrator Dunn reported that he recently attended a conference on public sector labor law, where he learned that there have been amendments to the Americans with Disabilities Act, with the kinds of disabilities being greatly expanded. The Town will need to address some of these matters and he will be discussing it with Department Managers at their meeting tomorrow. He further clarified that the Town’s responsibilities are to provide reasonable accommodations, which is very case specific.
- 12. Next Meeting** – Regular Meeting – November 9, 2011 at 7:00 p.m.
- 13. Adjournment** – With no further business before the Board, the Board of Selectmen’s October 26, 2011 meeting was adjourned at 7:47 p.m.

Respectfully submitted,

J. Kevin Hayes
Clerk