

GILFORD BOARD OF SELECTMEN'S MEETING
July 25, 2012
Town Hall

The Board of Selectmen convened in a regular session on Wednesday, July 25, 2012, at 7:00 p.m., at the Gilford Town Hall, 47 Cherry Valley Road, Gilford, NH. Selectmen present were Gus Benavides, John O'Brien and Kevin Hayes. Also present were Town Administrator Scott Dunn and Executive Secretary Sandra Bailey.

Staff members in attendance included Finance Director Geoff Ruggles, Police Chief Kevin Keenan, Police Lieutenant Jim Leach, Fire Chief Steve Carrier, DPW Director Sheldon Morgan, Parks and Recreation Director Herb Greene and Library Director Katherine Dormody.

1. **Non-Public Session – 6:00 P.M.** - Selectman Hayes moved to enter non-public session at 6:00 p.m., pursuant to RSA 91-A:3, II (a)(b)(c)(d) to discuss personnel matters, matters that would likely adversely affect someone's reputation and the acquisition of real property. Selectman O'Brien seconded. Motion carried on a roll call vote with all in favor. Present were Selectmen Gus Benavides, John O'Brien and Kevin Hayes. Also present was Town Administrator Scott Dunn.

While in non-public session, action was taken.

Selectman Hayes moved to exit non-public session at 7:00 p.m. and seal the minutes. Selectman O'Brien seconded. Motion carried with all in favor.

2. **Pledge of Allegiance** - The Selectmen recited the Pledge of Allegiance.
3. **Announcements/Presentations**
 - 3.1. Chairman Benavides announced that the Lakes Region Hazardous Waste Collection will be held on Saturday, July 28, 2012 from 8:30 a.m. to 12:00 p.m. at the Gilford Public Works Garage.
 - 3.2. The Special Town Meeting Deliberative Session will be held on Tuesday, August 7, 2012 at 7:00 p.m. at the Gilford High School Auditorium.
 - 3.3. The Selectmen's annual Summer Town Forum will be held on Wednesday, August 8, 2012, at 6:00 P.M. at the Gilford Town Hall.
 - 3.4. NH DOT will be conducting night paving on Route 11 from the Laconia Town Line to Ellacoya State Park on July 25 and 26, 2012.
4. **Review/Approval of Minutes**
 - 4.1. Selectman Hayes moved to approve the minutes of the July 11, 2012 meeting as presented. Selectman O'Brien seconded. Motion carried with all in favor.
 - 4.2. Selectman Hayes moved to approve the minutes of the July 16, 2012 special meeting as presented. Selectman O'Brien seconded. Motion carried with all in favor.
5. **Consent Agenda**
 - 5.1. Selectman Hayes moved to approve the previously signed items for the period July 9, 2012 through July 20, 2012 as listed. Selectman O'Brien seconded. Motion carried with all in favor.

DOCUMENT DATE

DOCUMENT

MAP/LOT #

04/23/12

Change of Status - Wolfe

04/29/12	Change of Status - Latosek	
06/01/12	Change of Status - Cappello	
06/07/12	Change of Status - Lavin	
06/16/12	Change of Status - Bos	
06/25/12	Change of Status - DeProspero	
06/30/12	Change of Status - Latosek	
07/02/12	Accounts Payable Manifest	
07/02/12	Payroll Register (2)	
07/03/12	Abatement Denial - McDonald	226-017.000
07/05/12	Abatement - Brunelle	240-041.000
07/05/12	Abatement - Tilly	267-211.010
07/06/12	Abatement - Goodwin	253-005.000
07/06/12	Abatement Denial - Casey	250-012.000
07/09/12	Payroll Register (3)	
07/10/12	Accounts Payable Manifest	
07/11/12	Deed Waiver - Smith	213-088.005
07/11/12	Sewer Abatement - NH Fed. Credit Union	204-038.000
07/11/12	Veteran's Tax Credit - Hackett	224-081.701
07/11/12	Veteran's Tax Credit - Capadakis	252-016.909
07/11/12	Letter to Metrocast	
07/11/12	Warranty Deed Acceptance - Gail Pike Tracy	
07/11/12	Letter to Belknap County Commissioners	
07/14/12	Change of Status - Campbell	

6. Appointments

6.1. Herb Greene – Parks & Recreation Department Update – Director Greene stated that his last update occurred in March 2012 and the Department has been very busy since that time. Director Greene provided Board members with a written summary of events and proceeded to elaborate on them, beginning with facility improvements. He further stated that improvements at the beach were done with the assistance of volunteer groups from the Gilford Community Church, which was very much appreciated. Projects were also completed at the Village Field.

Highlights of the spring programming included the Flashlight Easter Egg Hunt and Breakfast with the Easter Bunny. A new event this spring, as part of the Senior Moment-um Program, was the Senior/Senior Prom, which was co-sponsored with Gilford High School. This was very well received.

The summer has been very busy for the Recreation Department, including involvement in Bicentennial Events. The grand opening, held on June 16th, was very well received and Director Greene has heard many positive comments. Other summer programs have been well attended and show increased attendance over last year. There are still other programs scheduled for August, including the Bicentennial Old Home Day festivities. The Recreation Department has remained very busy and foresees a positive ending for summer programming.

Selectman O'Brien asked about the Aquafina Pitch, Hit and Run program. Director Greene stated that Aquafina supplies all of the equipment for the program and also makes arrangements for participants who qualify to move onto regional, and sometimes national, competition. Selectman O'Brien also inquired if the tennis program interacts with the Gilford Hill Tennis Club. Director Greene replied that the program is contracted through Gilford Hills but the Town tennis courts are used.

In closing, Selectman O'Brien complimented Director Greene for the letters of congratulations that he sends out to his staff when they demonstrate outstanding job performance.

Chairman Benavides asked about the cost of the Red Sox trips. Director Greene stated that it varies, but this year's trips were \$60 per person, with a small discount for purchasing four tickets.

The Board thanked Director Greene for his update.

- 6.2. Geoff Ruggles – Monthly Financial Update** – Director Ruggles stated that he is pleased to report another month of positive financial trends for June 2012. Revenues are up approximately 8% over last year and he anticipates that we will meet or exceed our revenue estimates for 2012. He also reported a slight increase over the projected estimate for State block grants. Department revenues are showing a 9% increase over last year.

As far as expenditures are concerned, they are down over last year's amounts because of later payments for road maintenance. Payroll costs are also down approximately \$80,000 over last year's levels. Director Ruggles stated that he believes that this is an indication of the judicious spending of Department Managers. He indicated that he expects total personnel costs will be 1-2% less by the end of the year, resulting in a savings of \$50,000 to \$100,000.

Property tax payments are once again very close to 2011 levels and cash flow is also on par with 2011. Director Ruggles stated that if we continue in this manner throughout the rest of 2012 with revenue and expenditures, we can expect a significant surplus at the end of the year.

Selectman Hayes questioned why there would be no impact on the tax rate if the proposed backhoe purchase is significantly less than the amount approved at Town Meeting. Director Ruggles replied that it was a special warrant article with funding to be withdrawn from a capital reserve fund.

The Board thanked Director Ruggles for his update.

7. Old Business

- 7.1. Pawnbroker & Secondhand Dealer License Application – Lakes Region Auction Services** – Police Chief Keenan advised the Board that he and Chris Jacques met with the owner and found him to be compliant with their requirements. In addition, Mr. Byer upgraded his software, at his own expense, to provide the information needed by the Police Department. Because of this, Chief Keenan is now recommending approval of the license.

Dave Byer, owner of Lakes Region Auction Services, commended the members of the Police Department who worked with him to solve any outstanding issues. He further stated that he is "totally on board" with what the Police Department is looking for in his recordkeeping. Chairman Benavides commended Mr. Byer for his pro-active position in solving the outstanding issues with the Police Department. Further, Chairman Benavides reiterated his position that he is pro-business for the Town of Gilford.

Brief discussion ensued regarding some minor infractions with a recent fire inspection.

Selectman Hayes moved to approve the Pawnbroker & Secondhand Dealer License for

Lakes Region Auction Services to expire as of July 31, 2013. Selectman O'Brien seconded. Motion carried with all in favor.

- 7.2. Live Entertainment License – Kelsey's at the Grant** – Chairman Benavides provided a brief review of the status of the entertainment license request and stated that a decision on the status of the liquor license has been determined. He clarified that although Mr. Drew originally submitted two applications – one with liquor and one without liquor – he would like to move forward with the application with the serving of liquor.

Attorney David Bownes, representing Willard Drew, stated that he has reviewed the letters written by Town Administrator Dunn and Willard Drew. He further stated that Mr. Drew has had a difficult time since the raid that was conducted on October 18, 2011. At the time of the raid, there was a lot of speculation and the facts were not known. However, through a lengthy three-day hearing with the State Liquor Commission, it has been determined that Kelsey's at the Grant will undergo a three-day suspension of their liquor license and \$350 fine.

Attorney Bownes continued, stating that the investigation into Kelsey's at the Grant began in July 2011 and was initiated by the NH Drug Task Force, on the basis that they might find Outlaw gang activity at the club and/or wholesale drug activity. It became clear during the course of the hearing that none of that had taken place and there was no wrongdoing on the part of management. Any drug activity was initiated by the undercover agents and they chose to have that activity take place at the club.

Moving forward, Mr. Drew, and sometimes his ex-wife, Darlene Sherman, have run the club for a period of 21 years and there has never been any evidence of unlawful activity. Mr. Drew will now be running the club as the manager and any other acting manager would be identified to the NH Liquor Commission. There are currently no outstanding matters with the State Liquor Commission. Attorney Bownes clarified that it will take awhile for Mr. Drew to have his business up and running again. He also pointed out that all of the Department Managers, with the exception of Town Administrator Dunn, signed off on the license application. Because of this, Attorney Bownes stated that Mr. Drew is entitled to receive his Entertainment License.

Chairman Benavides clarified that the ultimate decision regarding the approval of the Entertainment License is made by the Board of Selectmen.

Selectman Hayes stated that he has a number of unanswered questions for Attorney Bownes from the letter written by Town Administrator Dunn on July 16, 2012. He also pointed out that after having issues with another establishment in Gilford that impacted the issuance of their Entertainment License, the Board came down hard on the owner and required a written plan of how certain issues would be addressed. Once this was completed, they have not had issues with this establishment.

Selectman Hayes also stated that since the raid in October 2011, he has had several residents convey to him their opinion that the elimination of exotic dancing would be a positive thing for Gilford. When asked if he would like to provide answers to the questions now, Attorney Bownes replied yes.

Selectman Hayes asked Mr. Drew's specific role in running the operation and how often he would be there. Attorney Bownes replied that Mr. Drew would be the general manager and would be there seven days a week. Selectman Hayes further questioned if someone else

were in charge if the Board would have access to the name of that individual, to which Attorney Bownes replied yes. Selectman Hayes then asked what steps would be taken to prevent the re-filling of liquor bottles and giving out free drinks. Attorney Bownes replied that there was insufficient evidence at the Liquor Commission hearing regarding the re-filling of liquor bottles and as far as giving away free drinks, this was done almost exclusively to the undercover agents. Mr. Drew employs experienced bartenders, who are aware of the small statutory framework in which free drinks can be offered.

Selectman Hayes then questioned the matter of insufficient food sales. Attorney Bownes responded that in order for Mr. Drew to maintain the liquor license in his establishment, he has a \$50,000 threshold with respect to the sale of food. This has been an issue for Mr. Drew from the time he had to reduce the capacity of the establishment to 99 seats. Mr. Drew was working on this issue with the Liquor Commission last summer and were about to hit the threshold mark in the near future. He emphasized that this matter will be monitored by the Liquor Commission.

Selectman Hayes then asked for clarification of the status of exotic dancers, whether or not they are employees or subcontractors. Attorney Bownes stated that the evidence with the Liquor Commission showed that each one of the dancers had a signed contract. However, the NH labor laws require that dancers be treated as employees, not private contractors. As a result, Kelsey's at the Grant will comply with these laws.

Selectman Hayes questioned how the issue of preventing audience interaction and physical contact with the dancers would be handled. Attorney Bownes replied that it would be handled in the same manner as it was before. He further clarified that this started out as an allegation with the Liquor Commission and was disposed of because there was no evidence to support it. Again, Mr. Bownes stated that the only contact was between the dancers and undercover agents when they exchanged unlawful drugs. However, he stated there was one occasion where a private dance was performed with an intoxicated patron who had inappropriate contact and was subsequently removed from the room. The "no contact" rules are posted within the establishment.

Selectman Hayes inquired about the fact that the liquor license is scheduled to expire on July 31, 2012. Attorney Bownes stated that if they receive approval here, they will be able to renew their liquor license. Selectman Hayes further asked if they would be willing to accept the limit of no exotic dancing. Mr. Drew replied no and Attorney Bownes reiterated that they are seeking a full license.

Selectman O'Brien stated that he was flabbergasted with the outcome of the fines from the Liquor Commission. The cost of the investigation far exceeded the fines that were involved. Attorney Bownes responded that the Liquor Commission is an independent body who makes their own findings. The NH Drug Task Force conducted this investigation and determined there was no evidence of Outlaw gang activity or wholesale drug activity. They did determine that some of the dancers were involved in individual drug sales with the undercover agents.

Selectman Hayes expressed concern that Mr. Drew has signed on as the sole manager of Kelsey's at the Grant, but he has held the liquor license before when he did not have that kind of oversight. Attorney Bownes stated that Mr. Drew was in contact with those managers on a daily basis, although he was not inside the bar at night. He also pointed out that those managers were in contact with officials of the Town of Gilford and NH Liquor Commission. He emphasized that at this time, it is very clear that Mr. Drew will be the

manager of Kelsey's at the Grant.

At this time, Chairman Benavides offered Mr. Drew the opportunity to make any comments, if he would like to do so. Mr. Drew stated that he does not have anything he'd like to discuss but wants what is right for him. He has been in business at this location for 21 years and if there are any management changes, he will let the Liquor Commission and Town of Gilford know. He added that he lives at the location seven days a week, although the club is currently open only five nights a week.

Chairman Benavides stated that he appreciates that Attorney Bownes has answered the questions presented by Selectman Hayes, but asked for clarification of the role of his ex-wife Darlene Sherman. Mr. Drew stated that she would have no role in the operation of the club and was here tonight for moral support.

Mr. Drew stated that since October 18, 2011, he has been through a great deal of stress and if the Board has any further questions for him, he would like to address them in non-public session. He has endured financial damage, as well as damage to his building. Any further discussion will take place with Attorney Bownes.

Chairman Benavides moved to approve the Live Entertainment License for Kelsey's at the Grant for the period July 26, 2012 through July 25, 2013. Because there was no second to the motion, it failed.

Selectman Hayes inquired that since Mr. Drew has been operating under a 2-week entertainment license, what would he now need from the Board to continue to renew his liquor license, which is due to expire soon? Attorney Bownes responded that he did not think Mr. Drew needed anything from the Town to renew his liquor license, but was not sure.

Attorney Bownes commented that he thinks Mr. Drew is entitled to an explanation of what requirements he has not met so that he can receive his entertainment license.

Selectmen Hayes responded that they are not through with this matter and moved to authorize the entertainment license for Kelsey's at the Grant for the following purposes: DJ, bands, duo's, single performers, comedians, karaoke contests, blues jams, burlesque skits, hot legs contests, wet t-shirt contests and amateur nights, through July 25, 2013. Selectman O'Brien seconded. Motion carried by a vote of 2-1 with Chairman Benavides voting no.

7.3. Appointment to Lakes Business Park Board of Directors – no action taken.

7.4. Public Safety Employees Memorial Flagpole – Town Administrator Dunn stated that he has discussed the placement of the flagpole at the Warming Hut location on Cherry Valley Road with DPW Director Sheldon Morgan. The property is the subject of a conservation easement that is held by the Society for the Protection of NH Forests. The easement states that there can be no structures and the primary purpose is to maintain the aesthetic quality of the property. There is a provision, however, for ancillary structures, a category that the flagpole could be considered to be under.

Town Administrator Dunn further stated that the Town will need to gain approval from the Society in order to have the flagpole erected and would like to know if that is how the Board would like to proceed. Selectman O'Brien asked what the plan now was in regards to changing the intersection of Routes 11-A & 11-B to a T-intersection and further commented

that the flagpole could be moved in the future. Town Administrator Dunn replied that the Town has never formally applied to the State for this change and a cost has not been determined. Selectman Hayes commented that if the State were to take on this project it would be at least six years out. Selectman O'Brien responded that the feedback he has received from residents is that they would like to see the intersection changed.

Town Administrator Dunn stated that this project could conceivably be paid for by the Town of Gilford. Selectman O'Brien stated that it does appear that the Town should still go ahead and seek permission from the Society for the Protection of NH Forests to have the flagpole erected at the Warming Hut.

Selectmen Hayes suggested that the Board could proceed with a request to the State to prepare preliminary costs for the intersection change. That way, if grant monies were to become available, the Town would know how much the project would cost. Town Administrator Dunn stated that if the Town would like the project to move forward that NH DOT will conduct a study and arrive at a cost. Town Administrator Dunn further stated that the Town could have the Town Engineer create a plan and cost estimate for the project.

Selectman Hayes suggested that this matter be further discussed at the August 22nd meeting when members of the NH DOT will be at the Selectmen's meeting to discuss the Road Safety Audit of the intersection of Route 11-A/Belknap Mountain Road/Schoolhouse Hill Road. He also asked Town Administrator Dunn to alert Nancy Mayville of NH DOT that the Town is still interested in changing the intersection.

Town Administrator Dunn brought up the matter of the process that would be involved in selecting a location for the flagpole. He added that the Gilford Professional Firefighters are interested in playing a role in the process.

7.5. Sale of Town Property on Potter Hill Road – Use of Proceeds – Selectman Hayes moved to approve the letter, as presented, regarding the sale of Town property on Potter Hill Road. Selectman O'Brien seconded. Motion carried with all in favor.

7.6. Special Town Meeting Warrant Amendments – Fire Truck Purchase and Meeting Location – Town Administrator Dunn stated that Finance Director Ruggles has provided the information they requested regarding the use of the excess fund balance for the purchase of the fire truck. Selectman Hayes commended Finance Director Ruggles for the memo he prepared regarding the use of the fund balance and stated that he thinks this is a voter decision issue that can be brought up at the Deliberative Session. Selectman O'Brien commented that the funding options could affect the percentage vote necessary for approval.

8. New Business

8.1. Homeland Security Grant Application – Fire/Rescue Training Reimbursement – Selectman Hayes moved to approve the grant application as presented and authorize the Town Administrator to sign the application. Selectman O'Brien seconded. Motion carried with all in favor.

8.2. Timber Harvest/Sale – Powell Lot – Selectman Hayes moved to approve a timber harvest on the Town's Powell lot by Peter Pierce, under the supervision of Town Forester, Tim Nolin. Selectman O'Brien seconded. Motion carried with all in favor.

8.3. Purchase of DPW Backhoe – Chairman Benavides provided brief background regarding the Town's purchase of a new backhoe. The 2012 Town Meeting approved this purchase in

the amount of \$120,000 and DPW Director Morgan was able to secure a slightly used backhoe at a cost of \$70,730 after trade-in. He commended Director Morgan for always being frugal with Town funds and his willingness to purchase used equipment.

Director Morgan stated that this is not a typical transaction, but he was “in the right place at the right time” to be able to purchase this piece of equipment. The dealer offered a warranty with the backhoe that would not typically be included.

Selectman Hayes moved to waive the Town’s purchasing policies and to authorize the DPW Director to purchase a used 2010 Caterpillar 420E backhoe from Milton Cat of Hopkinton, NH, for the sum of \$70,730 after trade-in, from the Highway Equipment Capital Reserve Fund, per the letter of agreement from Milton Cat dated July 20, 2012. Selectman O’Brien seconded. Motion carried with all in favor.

9. **Public Input** – Mark Corry of Intervale Road expressed concern that Will Drew complied with all of the requirements of the Town and Liquor Commission and did not receive approval for his entertainment license, to include exotic dancing. He thinks this has been a disservice to Mr. Drew and the residents of Gilford.
10. **Selectmen’s Issues** – Selectman Hayes questioned if preparations are being made for the Timberman Triathlon. Fire Chief Carrier stated that there was a meeting today and there will be no route changes this year. Selectman Hayes further asked if any update was available concerning the Lincoln Park clearing and installation of previously approved memorial benches. Selectman O’Brien commented that he is hopeful that the speakers for the Timberman Triathlon will not be on prior to 6:00 a.m. this year.
11. **Administrator’s Report** – Town Administrator Dunn stated that he is soliciting proposals for a private contractor to provide cleaning services at the Library, accepting nominations for the Boston Post Cane and accepting applications for a DPW employee.
12. **Next Meeting** –Regular Meeting – Wednesday, August 8, 2012
13. **Adjournment** – With no further business before the Board, the Board of Selectmen’s July 25, 2012 meeting was adjourned at 8:31 p.m.

Respectfully submitted,

John T. O’Brien
Clerk