

GILFORD BOARD OF SELECTMEN'S MEETING
September 11, 2013
Town Hall

The Board of Selectmen convened in a regular session on Wednesday, September 11, 2013, at 7:00 p.m., at the Gilford Town Hall, 47 Cherry Valley Road, Gilford, NH. Selectmen present were John O'Brien and Gus Benavides. Also present were Town Administrator Scott Dunn and Executive Secretary Sandra Bailey. Excused was Chairman Kevin Hayes, who was on vacation.

Staff members in attendance included Finance Director Geoff Ruggles, Recreation Director Herb Greene, DPW Director Sheldon Morgan, Fire Chief Steve Carrier, Police Lieutenant Kris Kelley and Police Lieutenant Jim Leach.

1. **Non-Public Session** – Selectman O'Brien moved to enter non-public session at 6:00 p.m., pursuant to RSA 91-A:3, II, to discuss personnel matters, matters which would likely adversely affect the reputation of any person and pending litigation. Selectman Benavides seconded. Motion carried on a roll call vote with all in favor. Present were John O'Brien and Gus Benavides. Also present was Town Administrator Scott Dunn.

Selectman O'Brien moved to authorize the hiring of Priscilla LeClaire as a Communications Specialist effective September 19, 2013, at a pay rate of \$15.11 per hour. Selectman Benavides seconded. Motion carried with all in favor. During non-public session, other matters were discussed.

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

2. **Pledge of Allegiance** - The Selectmen recited the Pledge of Allegiance.

3. **Announcements/Presentations**

- 3.1. Vice Chairman O'Brien announced there will be a Board of Selectmen Budget Work Session, on Wednesday, September 25, 2013, beginning at 8:00 a.m.
- 3.2. There will be a Lower Liberty Hill Waste Clean-up Public Information Meeting on Wednesday, September 25, 2013, at 6:00 p.m. at the Town Hall.

4. **Review/Approval of Minutes**

- 4.1. Selectman Benavides moved to approve the minutes of August 28, 2013, as presented. Selectman O'Brien seconded. Motion carried with all in favor.

5. **Consent Agenda**

- 5.1. Selectman Benavides moved to approve the previously signed items for the period August 26, 2013 through September 6, 2013, as listed. Selectman O'Brien seconded. Motion carried with all in favor.

<u>DOCUMENT DATE</u>	<u>DOCUMENT</u>	<u>MAP/LOT #</u>
06/20/13	Change of Status - Abbott	
08/14/13	Appointment to LRPC - S. Dunn	
08/19/13	Payroll Register	
08/19/13	Payroll Register	
08/20/13	Payroll Register	
08/20/13	Payroll Register	
08/26/13	Payroll Register	
08/26/13	Payroll Register	
08/27/13	Accounts Payable Manifest	
08/27/13	Accounts Payable Manifest	
08/28/13	MS-1	
08/28/13	NOITC - Bronnenberg	236-015.000

08/28/13	Tax Collector's Warrant - 2013 Sewer Rents
08/28/13	Appointment to KWFC - R. Dean
08/28/13	Appointment to KWFC - J. Veazey
08/28/13	Appointment to KWFC - S. Dunn
08/28/13	Appointment to KWFC - E. McLaughlin
08/28/13	Appointment to KWFC - R. Watson
08/28/13	Appointment to KWFC - G. Labonte
08/28/13	Appointment to KWFC - S. McGonagle
08/28/13	Appointment to KWFC - K. Katz
08/28/13	Appointment to KWFC - P. Bennett
09/01/13	Change of Status - Young

6. Appointments

6.1 Greg Goddard – Gunstock Recreation Area Update – Greg Goddard thanked the Board for the opportunity to provide them with an update on Gunstock. He began his presentation with a progress report on Area Road. The survey has been completed and he is pleased to report that there were only a few minor issues to be addressed.

Mr. Goddard then stated that he has been working with DPW Director Sheldon Morgan on the configuration of a turnaround for emergency vehicles. He anticipates that a public hearing can be held in the near future to determine if the Town will take over ownership of the road, with a goal of having the ownership resolved before the winter season.

The next matter to be discussed was the Tough Mudder event, held earlier this summer at Gunstock. Mr. Goddard indicated that Gunstock is negotiating to conduct another Tough Mudder event, probably to take place during the month of September. He mentioned concerns with not conflicting with the September NASCAR Race weekend.

Another new event being scheduled in 2015 is the Ragnar Trail Race Series, which is a 24-hour relay marathon, taking place on trails on the mountain. He also highlighted some changes being made to the Soulfest event, which is being reduced from a 4-day event to a 3-day event.

The NH Road Agents Trade Show, known as the Mountain of Demonstrations, will be moving their event from Gunstock to Mt. Sunapee in 2014. They have held this event at Gunstock for many years. Mr. Goddard indicated that this was a favorable event for Gunstock because vendors would conduct live demonstrations and, as a result, they'd complete small construction projects.

A new beginner ski area is currently being constructed at the mountain, creating a terrain-based teaching area. This will also create a new festival field for the summer season. In addition, the loop road that goes around the exterior of the parking lot is being re-built with new drainage and a new surface.

The Board thanked Greg Goddard for his update.

7.0 Old Business

7.1 Kimball Castle – The Board concurred to table this matter until the next regular meeting.

7.2 Town Beach – After Recreation Director Herb Greene provided a brief overview of the proposed project, Selectman Benavides moved to approve the contract with Certified Erosion Control of NH in the amount of \$3,240 with \$2,627 to come from the Recreation Facilities Maintenance Capital Reserve Fund and the balance of \$613 to come from account #4194-535, until such time as additional funds may be available in the Recreation Facilities Maintenance Capital Reserve Fund to cover this cost. Selectman O'Brien seconded. Motion carried with all in favor.

8.0 New Business

8.1 Request for Acceptance of Rowe Farm Road – Howard Warren and Karen Feltham were in attendance representing Blue Sky Enterprises. Mr. Warren noted that Blue Sky Enterprises developed Farm View Lane in 2005 and subsequently, had the road approved by the Board of Selectmen. They are now seeking approval for a new road constructed as part of a development they began two years ago that is off of Cotton Hill Road.

Mr. Warren further stated that they are looking for the Board to accept the road name, reduce the default speed limit from 35 mph to 30 mph, and advise them when the road would be accepted by the Town. The road name has been reviewed by pertinent Town Departments and they have found it to be acceptable.

Selectman Benavides moved to accept the name of the road as Rowe Farm Road. Selectman O'Brien seconded. Motion carried with all in favor.

As far as the reduced speed limit is concerned, this has also been reviewed by the Police Department and Department of Public Works and they concur with the recommendation. Selectman Benavides moved to reduce the speed limit on Rowe Farm Road to 30 mph. Selectman O'Brien seconded. Motion carried with all in favor.

Town Administrator Dunn recommended waiting until posting the reduced speed limit until some houses have been built and traffic patterns reviewed. Howard Warren clarified that the Police Department would like the road posted at 30 mph to aid them in any speed limit enforcement issues. Police Lieutenant Kelley confirmed that the signage would be beneficial in enforcing the reduced speed limit. The Board concurred that the signage be posted as 30 mph.

As far as when the Town would accept the road, Howard Warren stated that Town Administrator Dunn has recommended that the road be accepted after three houses are built. Mr. Warren stated that before the project began, they met with the Town Administrator and Director of Public Works to outline their proposal and see what matters they would like addressed. He explained that this area was once an old pit and in a very bad state, similar to the pit on Durrell Mountain Road that Blue Sky purchased and cleaned up several years ago.

They also mitigated a drainage issue around an adjacent property owner's well on Cotton Hill Road by designing a new system and creating the necessary easements. In addition, they worked closely with Director Morgan to design specific locations where driveways and mailboxes would have to be placed. This will be advantageous to DPW when plowing snow on the road. Mr. Warren reiterated that Blue Sky volunteered to specify these exact locations.

In light of the above-mentioned items, it was their understanding that if these conditions were all met that the Town would accept the road. Since there have been no changes in the Town Regulations since Farm View Lane was developed, he does not understand why the process has changed. Mr. Warren further stated that he had a lengthy discussion with Director Morgan regarding this issue and he passed on some of their findings to the Board.

The subdivision is not legal unless the lots have frontage on a Town road. Mr. Warren further read from the Minimum Road Standards, which address the "public need" for the road. In addition, there is a provision for two lots to be serviced by a single driveway, or private road. Also, the definition of a private road states that it must be clearly designated on the plan as such and must remain a private road. He anticipates that this will create a title problem for prospective lot owners if the subdivision plan is recorded as a private road, since there is no option to change it to a public way. He recommended that the process be officially changed if road acceptance is going to be done differently than it has been in the past. He also thinks that he will be unable to sell the lots if they are not on a public road, as problems will exist for title companies and lending institutions.

Mr. Warren then brought up the matter of the Town accepting the road and being able to control it. Without accepting the road, the driveway permit process cannot be enforced, such as having a 10-foot paved apron from the street onto the lot. This protects drainage and utilities from heavy construction vehicles. In addition, they collaborated with the Planning Board and Department of Public Works to designate driveway entrance locations and they had to build the driveway stubs in those locations. Without the driveway permit process in place, the Town cannot compel property owners to use the designated driveway locations, which would also create issues on the cul-de-sac.

Mr. Warren stated that Director Morgan's issues are that if the driveway permit process is not enforceable that he will eventually have to mitigate problems that this has created. As far as financial issues are concerned, he recognized that not having to plow Rowe Farm Road this winter will save money for the Town in the short-term, but in the long-term could end up being much more expensive. He also pointed out the 10% penalty that will be paid when each lot is taken out of current use.

Mr. Warren stated that the reality of the situation is that if the Town does not accept the road right away that they are essentially saying no to the subdivision and they will have no choice but to litigate. In closing, Mr. Warren stated that Blue Sky has done everything that's been asked by the Town and does not think the acceptance process should be changed.

After Selectman O'Brien questioned how lots could be sold on the recent subdivision off of Mountain Drive, which is a private road, Town Administrator Dunn replied that to state that a lot cannot be sold unless the Town accepts the road is a completely false statement. Howard Warren countered that the Subdivision Regulations state that no lot can be conveyed until approval is granted by the Planning Board and the process is complete. He does not think that the process is complete without the Town accepting the road.

Town Administrator Dunn countered that there is nothing in the law that states the Town must ever take over the road. It is a completely discretionary act by the Board of Selectmen. Although the road within the subdivision must be built to the Minimum Road Standards, there is no law and nothing in the Town Ordinances and Regulations that states the road must be accepted. An alternative to this would be to take the matter to Town Meeting for the voters to accept the road.

Town Administrator Dunn conceded that Mr. Warren made a number of good points on how he and the Town worked together on this subdivision and there is no disputing that fact. However, he takes exception with Mr. Warren's threats of litigation. Selectmen Benavides and O'Brien agreed with Town Administrator Dunn that they interpreted the suggestion of litigation as a threat. Selectman Benavides added that he is a proponent of business within Gilford and would like to see this matter resolved without mention of litigation. He also clarified that the Town Administrator works for the Board of Selectmen.

Further discussion ensued regarding the subject of any new rules being added to the Town Regulations. Town Administrator Dunn and the Board emphasized the fact that no new rules have been added to the Town Regulations. Rather, this was brought up by Mr. Warren.

In his own defense, Howard Warren stated that, from a business prospective, if they are not able to proceed with selling the lots on a Town road then they must look at their next step in the process. He also pointed out that Blue Sky has worked well with the Town in the past and they are concerned about the road not being accepted, even though they incurred additional costs by doing additional work that was not required.

More discussion followed regarding the road acceptance process and the timeframe involved. Selectman Benavides once again reiterated that no rules have been changed. Mr. Warren asked the Board members to read the first two paragraphs from the Subdivision Regulations so that they would understand his point of view. Town Administrator Dunn stated that taking over the road now would not meet the legal threshold of meeting the public need. While he could have recommended that the

Board not accept the road until it is 50% developed, he instead recommended that it be done with the development of three homes.

At this time, Selectman Benavides asked DPW Director Morgan to comment on the matter. Director Morgan stated that he thinks both parties are correct because Town Administrator Dunn is quoting State law and Howard Warren is relaying how the process has been handled in the past. He added that, with past Boards, the issue of public need has not been addressed in the same manner. In the past, Gilford has accepted new roads as they have become available. He further clarified that the rationale for this has been to take ownership of the road when it is in pristine condition and does not show any wear. This enables the Town to take control of the road at an early stage.

Director Morgan provided an explanation of the typical process in laying asphalt on a newly constructed road. Selectman O'Brien asked him to comment on issues regarding the cul-de-sac. Director Morgan pointed out that driveways and mailboxes can end up in the wrong locations, resulting in DPW having no place to plow snow. With Mr. Warren's subdivision, all of these locations were pre-designed in the correct places to enable efficient snow removal.

Selectman Benavides asked for clarification regarding selling and building on lots on private roads. Town Administrator Dunn stated that lots on private roads can be sold and there is a mechanism in place for the Building Inspector to approve building permits on private roads. He also addressed the matter of the Town "losing control" if the road is not accepted right away. Any property owners who do not comply with the driveway and mailbox locations are jeopardizing the Town accepting the road. Acceptance of the road is an incentive to comply.

At the request of Selectman Benavides, Mr. Warren provided a brief overview of the scope of Blue Sky Enterprises. He also reiterated that without the appropriate frontage on a Town road, the subdivision cannot be considered as being approved and lots cannot be sold. He asked Town Administrator Dunn if he could come into his office tomorrow and review the Subdivision Regulations with him, to which Town Administrator Dunn replied yes.

Selectman O'Brien recommended that in view of these many issues, the matter be tabled to the next meeting. When Mr. Warren commented on how this process has been seamless in the past, Selectman Benavides responded that this Board takes their job very seriously and cannot account for past Boards who have come to meetings and just voted. Karen Feltham pointed out that the Town's definition of a private way limits homes to two, while they have a 13-lot subdivision that does not meet the definition of a private way. Howard Warren added the Regulations also stated that once a road is designated as private, it cannot be changed.

Town Administrator Dunn stated that State statutes require a public hearing prior to the acceptance of any Town road, and this has not been done in the past. He also pointed out that case law supports the Towns when developers have sued to have roads accepted.

8.2 Request for Abatement – 1177 Cherry Valley Road – Selectman Benavides moved to deny the request for abatement of tax lien interest from Todd Schenk. Selectman O'Brien seconded. Motion carried with all in favor.

8.3 Acceptance of Unanticipated Revenues – Selectman Benavides moved to accept a \$100 donation from the Laconia Lodge of Elks for the Gilford Police D.A.R.E. Program, and to authorize the expenditure of these funds for their intended purpose. Selectman O'Brien seconded. Motion carried with all in favor.

Selectman Benavides moved to accept \$1,923.84 in donations from a WOW Trail fundraiser for the medical care of K-9 Officer Ike, and to authorize the expenditure of these funds for their intended purpose. Selectman O'Brien seconded. Motion carried with all in favor.

8.4 Current Use Tax Lien Release – Selectman Benavides moved to approve the current use assessment lien release for Nathan Smith as presented. Selectman O’Brien seconded. Motion carried with all in favor.

9.0 Other Business – Town Administrator Dunn requested authorization to sign an acknowledgement form for LCHIP funds for the property located in the Belknap Range, adjacent to the Gage property, which the Board voted to accept at their last meeting. Selectman Benavides moved to authorize the signing of the LCHIP acknowledgement form for the property in the Belknap Range that is adjacent to the Gage property. Selectman O’Brien seconded. Motion carried with all in favor.

A request has been received from a Girl Scout Troop to be able to use the Town Hall on Friday evenings for their meetings. Selectman Benavides moved to authorize the Girl Scout Troop to use the Town Hall on Friday evenings for their meetings. Selectman O’Brien seconded. Motion carried with all in favor.

A request has been received from an Outdoor Education Class at Concord High School to have a campout on Whiteface Mountain as part of a school project. Selectman Benavides moved to approve the request of the Outdoor Education Class at Concord High School to have a campout on Whiteface Mountain. Selectman O’Brien seconded. Motion carried with all in favor.

The Police Department has received notification that they are eligible to receive one additional portable radio through a grant sponsored by the County. Selectman Benavides moved to authorize the Town Administrator to sign a Radio Recipient and Certification for one portable radio from NH Department of Safety. Selectman O’Brien seconded. Motion carried with all in favor.

10.0 Public Input – Mark Corry questioned about Police Chief Keenan being placed on paid administrative leave. He thinks that Chief Keenan has done an exemplary job for the Town. The Board declined to comment.

11.0 Selectmen’s Issues – None

12.0 Administrator’s Report – Town Administrator Dunn reported that the Town Hall renovations are underway.

13.0 Next Meeting – Wednesday, September 25, 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 September 11, 2013 meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Gus Benavides
Clerk