

GILFORD BOARD OF SELECTMEN'S MEETING

August 22, 2012

Town Hall

The Board of Selectmen convened in a regular session on Wednesday, August 22, 2012, at 7:00 p.m., at the Gilford Town Hall, 47 Cherry Valley Road, Gilford, NH. Selectmen present were Gus Benavides, Kevin Hayes and John O'Brien. 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, DPW Director Sheldon Morgan and Fire Chief Steve Carrier.

1. Non-Public Session

- 1.1. Selectman Hayes moved to enter non-public session at 6:00 p.m., pursuant to RSA 91-A:3,II, (d)(c) to discuss the conveyance of real estate and pending litigation and RSA 91-A:2, I, (a) to discuss collective bargaining. Selectman O'Brien seconded. Motion carried on a roll call vote with all in favor. Present were Selectmen Gus Benavides, Kevin Hayes and John O'Brien. Also present was Town Administrator Scott Dunn.

While in non-public session, action was taken.

Selectman Hayes moved to seal the minutes and exit non-public session at 7:00 p.m. 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 first order of business tonight is the presentation of the Boston Post Cane to David M. Bickford. He asked Mr. Bickford to come forward and then proceeded to read a proclamation about him and presented him with a replica of the cane. Mr. Bickford conveyed to the Board that as a former Selectman in Gilmanton, he was called upon to present the Boston Post Cane to various residents. Mr. Bickford had numerous family members in attendance, represented by five different generations.
- 3.2. Gilford Old Home Day will be held on Saturday, August 25, 2012.
- 3.3. The Bicentennial Woodsman Competition will be held on Sunday, August 26, 2012, at 11:00 a.m., at Gilford Elementary School
- 3.4. The Town Hall and Library will be closed on Monday, September 3, 2012 for Labor Day. The Library will also be closed on Saturday, September 1, 2012.
- 3.5. The Bicentennial "Gravestones Come to Life" will be held on Saturday, September 8, 2012, from 4:00 p.m. to 6:00 p.m., at Pine Grove Cemetery.
- 3.6. The State Primary Election and Special Town Meeting will be held on Tuesday, September 11, 2012, from 7:00 a.m. to 7:00 p.m., at the Gilford Middle School Gymnasium

4. Review/Approval of Minutes

- 4.1. Selectman Hayes moved to approve the minutes of the August 8, 2012 Summer Town Forum, regular session and non-public session 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 August 6, 2012 through August 17, 2012. Selectman O'Brien seconded. Motion carried with all in favor.

04/01/12	Change of Status - Carrier
05/30/12	Change of Status - Dominic DeCarli
07/01/12	Change of Status - Dominic DeCarli
07/30/12	Accounts Payable Manifest

07/30/12	Payroll Register	
08/01/12	Tax Collector's Warrant - Supplemental 2012 Assess.	
08/01/12	Abatement - Rogers	228-007.000
08/02/12	Payroll Register	
08/03/12	Tax Collector's Warrant - 2012 Sewer Rents	
08/03/12	Change of Status - Tierney	
08/06/12	Payroll Register	
08/06/12	Change of Status - Sanborn	
08/06/12	Change of Status - Harris	
08/06/12	Change of Status - Cote	
08/06/12	Change of Status - Skinner	
08/07/12	Accounts Payable Manifest	
08/08/12	Sewer Abatement - Margate Motel (3)	201-003.000
08/08/12	Abatement - Lafontaine	242-397.000
08/08/12	Abatement - NEDA (various)	211-005.000

6.0 Public Meeting

6.1 NH DOT Combined Public Officials/Public Informational Meeting – Improvements to Route 11-

A/Belknap Mountain Road/Schoolhouse Hill Road Intersection – Chairman Benavides turned the meeting over to Bill Oldenburg from NH Department of Transportation, who is Project Manager for these improvements. At this time, he introduced Trent Zanes and Susan Soucie, also from NH DOT, and Mike Izard from Lakes Region Planning Commission. Mr. Oldenburg stated that a presentation will be made on the proposed improvements, followed by questions from the Board and members of the public.

A Road Safety Audit was conducted two years ago and utilizes Federal Highway Safety funds to alleviate proven safety concerns. Locations that are considered have a higher than normal accident history and this intersection qualifies. He proceeded to review accident statistics that have occurred at this intersection since 2002. Comments taken from previous meetings were reviewed and alternatives are being presented tonight that address comments and concerns.

Mr. Oldenburg added that the plans being presented are not complete and they will consider tonight's comments before preparing the final plan. Some of the factors considered in the design are safety, traffic flow, limiting property impacts and minimizing environmental and historic impacts. He then turned the meeting over to Trent Zanes to explain the proposed road plan.

Mr. Zanes stated that in analyzing various accidents, they determined that the bulk of them occurred during the day with clear conditions. This identified the primary problem as being poor sight distance for vehicles entering Route 11-A. In order to safely enter Route 11-A, a 400 foot sight distance is desired. Some of the factors affecting the poor sight distance are guardrails, grade and curve of the road and a retaining wall. When Route 11-A was constructed ledge was found and, as a result, fill was brought in. Over the years, this fill has settled.

They plan to reshape the road with an overlay to get the vehicles up a little higher in the low area. Another solution is to move the guardrail on both sides of Belknap Mountain Road back to improve visibility. This was a challenge because of the proximity of the Gunstock River. They plan to stack the fill, in order to bring up the shoulder on the eastern side, without interfering with the river. There will be new guardrail installed that is made of thinner materials and only about one foot in depth, compared to 2½ feet for the existing guardrail.

On the Schoolhouse Hill Road side of Route 11-A, the retaining wall will be set back approximately six feet and be the same height as the existing wall. This change should enable motorists to have better sight distance to the left when entering Route 11-A. All of the proposed improvements are located within the Route 11-A right-of-way.

Bill Oldenburg emphasized that pavement can be added to low parts of the road to bring the road up.

The road will also be re-stripped and re-signed with better reflective material. Because the majority of accidents occurred due to poor sight distance, they think that these improvements will take care of that issue. Because of the location of the Gunstock River, the environmental division of NH DOT had to review potential impacts to plants, animals, etc. The cultural and social environments are also reviewed, dealing with such issues as historic buildings and noise and air pollution. Their goal is to complete these reviews so that the improvements will either avoid or minimize any impacts.

Anyone owning a historic property within the project area is able to become a consulting party. Mr. Oldenburg encouraged anyone with this interest to contact NH DOT.

The total cost of the project is estimated to be between \$500,000 and \$700,000, utilizing only State and Federal funding. No Town funds would be involved, with the exception of possible charges related to re-setting sewer or water facilities, if applicable. As far as scheduling is concerned, Mr. Oldenburg anticipates that if the design is completed this winter, they could optimistically begin construction in the spring of 2013. Information on the project is available on the NH DOT website, under the project center, and they would like to be able to link it to the Town's website.

Chairman Benavides asked Mr. Oldenburg about the possibility and estimated cost of installing a traffic light at the intersection. Mr. Oldenburg replied that their first step would be to determine if a traffic light were warranted. There are national standards that DOT uses, and based on that analysis, a traffic light is not warranted. On a typical day, there is not enough of a delay for traffic entering Route 11-A to meet the standards for a traffic light. In fact, a traffic light would serve to create more of a delay for motorists and still result in accidents, although a different kind than those that currently occur.

Mr. Oldenburg reiterated that because the intersection does not meet the standards for a traffic light, NH DOT would not install one. Chairman Benavides reminded residents that Route 11-A is a State road and therefore, under the jurisdiction of the State of NH, not the Town of Gilford. Selectman Hayes inquired about the duration of the project and Mr. Oldenburg responded that he anticipates it would be completed in one season. The re-paving will not be very time consuming, although the slope reinforcement and retaining wall construction will be. He also stated that any construction would be avoided during peak times. Susan Soucie commented that the new guard rails will be galvanized and much thinner than the existing guard rail.

Town Administrator Dunn asked that, given the fact that the speed of vehicles on Route 11-A is an issue, has DOT given any consideration to painting the speed limit on the roadway or installing some sort of permanent radar trailer. Bill Oldenburg replied that DOT does not stencil speed limits on roadways because it is difficult to maintain and a safety issue. Since the paint is actually a plastic material, it is very slippery when wet. He further stated that he understands that speed is an issue on Route 11-A, but is hopeful with better visibility and signage that people may slow down.

As far as the permanent radar trailer, Susan Soucie stated that she believes the one in Holderness was installed by the Town, not NH DOT. Director Morgan inquired about converting the overhead lights to LED lighting. Bill Oldenburg replied that NH DOT tends to remove overhead lights once a safety concern has been addressed. At this time, he again reiterated that the installation of a traffic light is not warranted at this intersection and would not be installed. In addition, the installation of a traffic light would most likely necessitate adding left turn lanes on Route 11-A.

Several members of the audience expressed their opinion that they would like to see a traffic light installed. Concern was also expressed concerning the visibility problem created by growing vegetation. Mr. Oldenburg responded that NH DOT has undergone budget decreases, so that mowing and trimming has been greatly reduced. NH DOT is now faced with either taking care of the road or taking care of the brush.

Extensive discussion ensued regarding traffic and accident statistics.

The public meeting was concluded at 7:58 p.m.

7.0 Appointments

7.1 Steve Carrier – Fire-Rescue Department Update – Chief Carrier began his presentation by providing statistics on calls to date. Last year was the Department’s busiest year ever so they are projecting that this year will be even busier, if the rate of calls persists. The Department has also experienced higher than normal brush incidents, a result of the very dry spring. He urged residents to continue to use caution when conducting outside burning.

Chief Carrier then reviewed the special events in Gilford this summer that Fire-Rescue has participated in. They have also been busy completed various inspections.

The Department has just completed the interviewing process for a full-time firefighter position and has presented a conditional job offer. They are hopeful of having the new staff member working by the middle of September. The Department’s 2012 budget is doing well and there are some upcoming CIP items over the next few years.

Chief Carrier is continuing to work with the Lakes Region Planning Commission to finalize their Hazard Mitigation Plan.

Selectman O’Brien inquired if there were any new developments with purchasing a “demo” truck. Chief Carrier responded that he has looked at a number of fire apparatus but none of them fits the bill for Gilford. He mentioned one specific truck that seemed like a good deal but the engine did not have enough horsepower.

Town Administrator Dunn stated that he spoke with Deputy Andrews today an agreement with LRGH for a pump drug library. At this time, Deputy Andrews came forward and explained about the Department’s electronic dispensing IV pumps. The Department’s newer pumps have a database within them that eliminates the need to manually enter information. The agreement in question would enable Gilford Fire-Rescue to utilize LRGH’s database, and Deputy Andrews is requesting that the Board of Selectmen sign that agreement. Also included in the agreement are requirements for ongoing training, preventative maintenance and regular updates through the hospital.

Town Administrator brought up that the agreement asks for the Town to waive a number of things and indemnify them. Having recently attended a seminar with the Town’s insurance company, he has learned that they will not provide insurance coverage if the Town waives its right to subrogation. He had a conversation today with LRGH’s counsel and advised him that the Town would approve the agreement if the word “subrogation” be stricken from the agreement.

Brief discussion ensued regarding the operation of the drug pump and storage of drugs.

Selectman Hayes moved to authorize the signing of the agreement with LRGH, conditional upon deleting the subrogation requirement. Selectman O’Brien seconded. Motion carried with all in favor.

7.2 Geoff Ruggles – Monthly Financial Update – Finance Director Ruggles reported that revenues continue to track slightly above last year’s levels, which includes a 5% increase in revenue from motor vehicle registrations. All of the 2012 Department budgets are looking good, slightly below last year’s levels. Property tax collections are off by 0.7% over last year and the main reason for this is that the tax bills went out later than last year, also making them due later than last year.

Selectman Hayes inquired about the recent decision regarding the Local Government Center refunding money to various municipalities. He asked Finance Director Ruggles if he had any idea how much it might mean for Gilford. Director Ruggles speculated that the figure might be (lower) six digits. He also stated that because LGC may challenge the decision, the timeframe for any refund is unknown. Town Administrator Dunn pointed out that if the decision stands it could mean a sizable rate increase in health insurance.

At this time, Chairman Benavides asked Police Chief Keenan to come forward and provide the Board with a brief update on the recent Timberman Triathlon. He also praised Officer Wes deSousa for recently going above and beyond the call of duty in helping out a person in need.

Chief Keenan stated that the Timberman Triathlon went well, although attendance was down on both days. He stated that part of the reason for the decrease in attendance could be that there were three other triathlons this weekend within the same general area, competing for participants.

Chief Keenan stated that there was a traffic delay at Sawyer's intersection on Sunday. He recapped the number of police officers on duty during the event and reminded everyone that the Timberman pays for all police costs.

8.0 Old Business

8.1 Route 11-A & Cat Path Intersection – Chairman Benavides reviewed the options available to the Board regarding traffic issues at Route 11-A and Cat Path. Selectman O'Brien stated that he did not believe that he would support making the street one way. He would still like to see signage installed on Route 11-A for "no right turn" and would like another letter sent to NH DOT. The Board concurred.

8.2 Ten Year Road Improvement Forecast 2012 – 2021 – Selectman Hayes moved to approve the Ten Year Road Improvement Forecast as presented. Selectman O'Brien seconded. Motion carried with all in favor. Selectman Hayes pointed out that after the first three years, this plan would probably not hold true, but it is a good path for the Selectmen to follow.

8.3 Gamestop Pawnbroker & Secondhand Dealer License Application – Police Chief Keenan commented that he is comfortable with the Board approving this application and will have Chris Jacques take care of any outstanding issues when he returns from leave. Selectman Hayes moved to approve the Gamestop Pawnbroker & Secondhand Dealer License Application as presented, pending final approval from Chief Keenan. Selectman O'Brien seconded. Motion carried with all in favor.

8.4 Lincoln Park Tree Survey – Town Administrator Dunn stated that after visiting the site with Stephanie Sanford of Belknap Landscaping, Doug Hill from the Conservation Commission and Kirk Young from Gilford Public Works, they created 50' x 50' quadrants, with each quadrant receiving point values for their trees. The Town is then able to cut so many trees, depending on the point value. The Department of Public Works will be able to cut sixty (60) trees, and then Stephanie will come back and re-calculate the points. This will determine if any other trees can be cut.

Any non-trees (under 1" in diameter) can be cut, followed by cutting some limbs. This will create a number of clearings for people to be able to sit and enjoy the view of the lake. Once this initial cutting is taken care of, DPW should be able to maintain the area without permits. Town Administrator Dunn encouraged Board members to view Lincoln Park once the cutting has been completed.

8.5 Request for Removal of Oak Tree at Lincoln Park – Town Administrator Dunn clarified that the tree in question is actually a red maple. Using the plan referenced in Agenda 8.4, he showed the Board the approximate location of the problem tree. The bottom of the tree has a large open cavity and because the abutter has offered to have the tree taken down at his own expense, Town Administrator Dunn recommended that the Board approve the abutter's request.

Selectman Hayes moved to approve the request of Albert Abrevaya for the removal of a large maple tree at Lincoln Park, at his own expense, under the supervision of the Department of Public Works. Selectman O'Brien seconded. Motion carried with all in favor.

8.6 Appointment to Lakes Business Park Board of Directors – Selectman Hayes moved to appoint Leo Sanfacon for a 1-year term to the Lakes Business Park Board of Directors, to expire on June 30, 2013.

Selectman O'Brien seconded. Motion carried with all in favor.

8.7 Wesley Woods Non-Profit Charitable Housing Exemption – Chairman Benavides stated that the Board has received an additional legal opinion on this matter and invited Attorney Rodney Dyer, representing Wesley Woods, to come forward and speak to this request for non-profit charitable housing tax exemption. Attorney Dyer responded that he is aware that the Board has very carefully considered this application from New England Deaconess, and regardless of the decision, he is convinced that they have had a fair hearing. He appreciates the time and attention that the Board has placed on this issue.

Wesley Woods is seeking to have the determination made that they are eligible to receive the status of non-profit charitable housing. They believe that New England Deaconess has a charitable purpose and is obliged to act consistently with that purpose. This is set forth in its charter and by State law. In addition, it is currently registered with two State agencies as a charitable entity. This creates a legal obligation for Wesley Woods to carry on with its charitable purpose.

Further, they believe that New England Deaconess provides a public service in caring for the elderly, particularly those with limited financial means. They have also offered evidence that the units are offered at substantially less than market rate. Over the past four years, New England Deaconess has provided \$300,000 in monthly fee assistance. This is based on the actual rentals vs. the market cost of rentals in Gilford. Monthly rentals range from \$550 to \$700 at Wesley Woods. These figures represent up to 50% reduction in the market rental rate.

The rentals do not disqualify an organization for charitable purposes, he continued, provided that they directly fulfill the organization's charitable purpose and are necessary to achieve its purpose. This is directly from a recent Supreme Court case. Attorney Dyer emphasized the New England Deaconess does not generate a profit and is not intended to. Wesley Woods can only exist and continue to exist if New England Deaconess is in a position to underwrite their expenses, since their expenses exceed their monthly income. There are no stockholders and no dividends paid and New England Deaconess does not receive Medicaid or Medicare reimbursement.

New England Deaconess is subject to regulations of the NH Insurance Department and the Charitable Trust Division of the Attorney General's Office. The State of NH has determined, through its Insurance Department, that Wesley Woods must be regulated as a charitable housing facility for the elderly. They must post a bond to guarantee that required services are presented to the residents of Wesley Woods. In closing, this is significantly different from a regular rental.

Providing housing at below market rates is within the class of legislation under RSA 72:23(k). Combined with the other evidence that has been presented, Attorney Dyer believes that they have met the burden of proof regarding the charitable status of Wesley Woods.

Selectman Hayes asked Attorney Dyer to clarify if people are actually buying a unit or renting a unit. Attorney Dyer replied that it is like other continuing care facilities, where you do not buy a unit. An entrance fee is paid and is calculated on one's ability to pay. This entrance fee is also 90-100% refundable, depending on the circumstances of the person renting the unit. The 10% is often considered a refurbishment amount.

Attorney Dyer further stated that there are a certain number of units that have been reserved for retired ministers. Those units are underwritten by the Preacher's Aid Society. If a retired minister is unable to afford a unit, the Preacher's Aid Society will step in and underwrite the unit.

Town Administrator pointed out that the Selectmen have received two independent legal opinions and both firms came to the same conclusion regarding the charitable status, which is different than Attorney Dyer's opinion. Selectman Hayes moved to deny the charitable tax exempt status of Wesley Woods. Selectman O'Brien seconded. Motion carried by a vote of 2-1 with Chairman Benavides voting no.

8.8 Liberty Elm Tree Donation Program – Chairman Benavides stated that the Town has ordered and paid for thirty (30) Liberty Elm Trees, at a cost of \$66.00 each, which will be picked up next spring. He further stated that the Board has a number of guidelines to set forth before the program can begin. Selectman Hayes recommended that residents be able to purchase trees and if they want to sponsor one, we have seventeen (17) locations available for them, so that thirteen (13) of them would need to be planted elsewhere. If the tree is placed on public property, he recommends that a plaque be made to recognize this fact.

Continuing, Selectman Hayes stated that DPW should plant the trees to make certain it is done properly and charge the public \$66.00 per tree. Chairman Benavides questioned how would administer the program and how would it be done. Town Administrator Dunn suggested that he put together a program brochure for the Board to consider at a later meeting. He also expressed concern with the Town accepting financial burden for the planting of the trees on Town property and the purchase and installation of a plaque for those trees. Selectman Hayes responded that he considers the tree a donation to the Town and therefore, the Town can accept some financial responsibility.

9.0 New Business

9.1 Request for Refund of Guest Card Fee – Selectman Hayes moved to approve the refund of a Guest Card in the amount of \$25.00 for Heidi Shaw. Selectman O'Brien seconded. Motion carried with all in favor.

9.2 Rehabilitation of Edgewater Drive – Chairman Benavides stated that some residents of Edgewater Drive have asked that the rehabilitation of the road be delayed until October, allowing them time to install conduits under the road. DPW Director Morgan stated that one of the residents is no longer interested in installing conduit, one of the residents will have their work completed long before October and one resident he is still waiting to hear from. The Board concurred that they have no objection to delaying the roadwork until October.

9.3 Contigiani Catering – Selectman Hayes moved to approve a one day live entertainment license for Contigiani Catering at the Gilford Youth Center on September 15, 2012. Selectman O'Brien seconded. Motion carried with all in favor.

9.4 Driveway Permit – Waiver Request of 15' Setback (90 Edgewater Drive) – DPW Director Sheldon Morgan stated that he has no concerns with the granting of this waiver.

Selectman Hayes moved to approve a waiver of the minimum 15' setback for driveway construction at 90 Edgewater Drive. Selectman O'Brien seconded. Motion carried with all in favor.

9.5 Hawkers and Vendors Permits at Gunstock – Town Administrator Dunn stated that he has come to the conclusion that the Town should step back from requiring vendor permits for events at Gunstock. Selectman Hayes questioned why Gunstock is different from other venues requiring vendor permits. Town Administrator Dunn replied that all activity takes place within the confines of the County-owned recreation area. The purpose behind the ordinance is to generate revenue and not allow vendors to undermine existing businesses. Issuing vendor permits creates a great deal of work without a real purpose, other than to generate revenue.

Town Administrator Dunn is proposing that he revise the existing Outdoor Vendors and Transient Sales Ordinance and bring it back to the Board for further review. The Board concurred.

9.6 Purchase of Dump Body & Plow for 2012 Truck – Selectman Hayes moved to approve the purchase of a stainless steel dump body and complete plow package with lighting and hydraulics for the 2012 Ford F550 from H.P. Fairfield, LLC of Pembroke, NH, in the amount of \$43,350, to come from account #4902-737. Selectman O'Brien seconded. Motion carried with all in favor.

10.0 Public Input – none.

11.0 Selectmen's Issues – none.

- 12.0** **Administrator's Report** – Town Administrator Dunn stated an RFP has been sent out for a plumbing and HVAC contractor for the Town, and those proposals are due on August 31st.

The Town is currently advertising for a part-time custodian, which also has a deadline of August 31st. The applications that have been received for the position of Auto Body Technician are currently under review and Town Administrator Dunn is hopeful of having a recommendation for the Board at their next meeting.

The Lakes Region Planning Commission is looking for a site to place their “Granite State Futures” survey box within the Town Hall. Town Administrator Dunn is recommending that this be placed in the Department of Planning and Land Use, a location where the survey could be explained if needed.

Town Administrator Dunn received a request from a resident on Sprucewood Drive to look into establishing a dog park in Gilford. The Board concurred to not pursue this request.

Gilford Village Knolls is looking into securing a mortgage, in order to be able to buy the property on Potter Hill Road, in the amount of \$110,000.

Town Administrator Dunn received correspondence from Metrocast today, stating that they are not going to re-allocate the public broadcast channels. Instead, this will be considered with the new franchise agreement, effective in 2014.

The Local Government Center is reducing their staff by eighteen (18) employees, resulting in a budget reduction of \$1.5 million in 2013.

- 13.0** **Next Meeting** – Regular Meeting – September 12, 2012 at 7:00 p.m.

- 14.0** **Adjournment** – With no further business before the Board, the Board of Selectmen's August 22, 2012 meeting was adjourned at 9:12 p.m.

Respectfully submitted,

John T. O'Brien
Clerk