

**TOWN OF DEERFIELD
BOARD OF SELECTMEN
July 27, 2009
MINUTES**

Call to Order:

6:00pm Chairman of the Board of Selectmen, Stephen R. Barry called the Meeting to Order.

Roll Call:

Present: Stephen R. Barry, Chairman; R. Andrew Robertson, Vice Chairman; John Reagan, Walter C. Hooker and Alan E. O'Neal, Selectmen

Also Present: Cynthia E. Kelley, Finance Director and Nese Farrell, Recording Secretary

Pledge of Allegiance to the Flag:

Chairman Barry asked all to rise for the Pledge of Allegiance to the Flag.

Citizen's Comments:

Maureen Mann (Library Trustee):

Chairman Barry recognized Ms. Mann. Maureen Mann updated the Board on the new 2008 Federal ADA Law giving states six months to conform to it; which means that the law should have changed in New Hampshire in February. She stated that Rick Pelletier was not aware of it, but it turns out that the safety system that had been planned is no longer legal. Ms. Mann noted that they have almost an additional \$1,000 expense, however, they are not asking for this money. They are going to take it out of something else and move items around.

Ms. Mann informed the Board that they spoke to several people about emergency generators and found that it would cost as much to use their main generator and dig a trench over the library. It is not automatic, it is manual; which means the person sitting there stuck on the lift can be seen, while someone else is trying to track down Mr. Tibbetts to come to turn it on. Maureen stated that she spoke to Mr. Tibbetts and no one was thrilled with their first choice to get one of those generators. Ms. Mann stated they will find the money to pay for it themselves.

Chairman Barry said he talked to the contractor the other day and it was explained that there was an emergency feature in the elevator that will allow it to come back down, so a generator shouldn't be needed. Ms. Mann explained that they thought that was acceptable as well. They had specifically paid extra for that feature, however, according to Rick Pelletier it no longer meets code as the Federal code changed August 2008.

Ms. Mann advised had they pulled it prior to that, and Mr. Pelletier claims it should be grandfathered. Mr. Pelletier spoke to the State and they are not sure it would have been grandfathered, as it is up to the State Elevator Inspector who would need to inspect it first. Ms. Mann informed the Board that they are progressing and the vestibule is being built.

Review Outstanding Minutes/July 13, 2009:

Chairman Barry brought attention to the July 13, 2009 Minutes and asked for discussion. Selectman Hooker advised that the top of page four/second paragraph stated that "Selectman Hooker heard at a Planning Board Meeting that... " and it probably should be something more like "during midsummer..." or to strike the word "that". Selectman Robertson suggested to insert "during".

Selectman O'Neal noted that at the top of page six/second paragraph it stated that "Chief Greeley has received four resumes, all fulltime certified" and he believes he said two are fulltime certified and two were not. Chairman Barry and Selectman Hooker thought they heard all fulltime and it was agreed by the Board that there are no changes.

MOTION: Vice Chairman R. Andrew Robertson made a Motion to approve the Minutes of July 13, 2009 with the said correction. Seconded by Selectman John Reagan.

VOTE: Chairman Barry called for the Vote. It was a Unanimous Vote in Favor to approve the Minutes with the said correction.

Approve Accounts Payable/Vouchers:

Approve Payroll:

Chairman Barry acknowledged payroll in the amount of \$47,563.93, which nets at \$36,868.60.

MOTION: Vice Chairman R. Andrew Robertson made a Motion to pay these employees. It was seconded by Selectman John Reagan.

VOTE: Chairman Barry called for the Vote. It was a Unanimous Vote in Favor to approve the payroll.

Accounts Payable Manifest/\$39,113.92:

Chairman Barry acknowledged two accounts payable manifests; one in the amount of \$39,113.92 and the other in the amount of \$242,308.11; of which \$200,000.00 is going to the school.

MOTION: Vice Chairman R. Andrew Robertson made a Motion to approve the accounts payable manifests. It was seconded by Selectman John Reagan.

VOTE: Chairman Barry confirmed the total of \$281,422.03 and called for the Vote. It was a Unanimous Vote in Favor to approve the accounts payable.

Signatures:

1. Appointment

Chairman Barry acknowledged that John Dubiansky has stepped forward to volunteer to act as a Water Commission and Mr. Kilham, Chairman of the Water Commissioners is requesting that we appoint him to be so.

MOTION: Selectman O'Neal made a Motion to appoint John Dubiansky as Water Commissioner for the term of office March 2010. It was seconded by Vice Chairman R. Andrew Robertson.

VOTE: Chairman Barry called for the Vote. It was a Unanimous Vote in Favor to approve the appointment.

2. Veterans' Tax Credit

Map 413 Lot 0077 Sub Lot 004/Kenneth L. Jones and Dollene Jones

Chairman Barry acknowledged a permanent application for Property Tax Credit exemption/Veterans Tax Credit for Kenneth & Dollene Jones to start in 2010. Paperwork seemed to be in order.

MOTION: Vice Chairman R. Andrew Robertson made a Motion to grant the exemption. It was seconded by Selectman John Reagan.

VOTE: Chairman Barry called for the Vote. It was a Unanimous Vote in Favor to grant the exemption.

3. Request for Reimbursement

From Tax Collector's Office: Refund to Donald Smith

Chairman Barry acknowledged a request to refund fifty cents to Donald Smith on North Road in Deerfield for overpaid town portion of Motor Vehicle of Registration.

MOTION: Vice Chairman R. Andrew Robertson made a Motion to grant the refund. It was seconded by Selectman John Reagan.

VOTE: Chairman Barry called for the Vote. It was a Unanimous Vote in Favor to grant the refund to Mr. Smith.

**4. Intent to Cut
Map 420 Lot 25/Debra C. Kelley**

5. Permit for Fireworks Display

Chairman Barry acknowledged the permit to have fireworks for Old Home Day on August 15, 2009.

Review of Correspondence:

1. Memo/Rick Pelletier

Encumbrance funds located/ Transfer Station work (slab) can be paid out of the encumbrance and not the Transfer Station Repairs and Maintenance Line. Cost for the pad at the Transfer Station totals out to \$2,922.39 as an expenditure from an encumbrance that we have for this purpose.

Selectman O'Neal questioned the labor end and to see if that covered the site prep from the highway department and if it doesn't, he would like to see the accounting of it all to determine if the Board can charge the labor. Chairman Barry clarified that if the Board was to approve it they'd like to have a detailed account from the Highway Department of how much time and money was spent working on this so that it can be expensed out of the encumbrance.

Chairman Barry asked the Board for permission to go with this. Vice Chairman Robertson and Selectman O'Neal verbally agreed. Chairman Barry asked for Mr. Pelletier to be informed to go ahead with it.

2. Rick Pelletier's Request for Extended Warranty on Generator for the Shelter/School

Chairman Barry confirmed that the Board found out after the fact that the extended warranty needed to be purchased within a specific time period, according to Mr. Pelletier. It was questioned if the Board could have found the money to avoid the late fee with the 10-year contract cost. Chairman Barry stated the Board will have money by next meeting and will request a waiver of the late fee. It was noted that Mr. Pelletier has budgeted for a five year term so that it would come in under budget, rather than the 10-year term. Selectman Hooker inquired about the difference of the five and ten year plans, noting that it's obvious that the five year is within budget, but the second five years will probably be a much more increase due to age and more likelihood of failure. Selectman Hooker suggested to find out what the actual difference is so that perhaps the Board can find the extra money to get the ten year contract to lock in the long term cost at a lower rate. Chairman Barry noted that the Board is already late and asked for Mr. Pelletier to inquire on the cost of the ten year. Chairman Barry advised that this Board will address this issue when Mr. Pelletier gets back to the Board with this additional information.

Selectman Hooker advised the Board that the Selectmen did have one for a prevailing cost every year at \$643.00 for a service contract and maintenance program.

MOTION: Selectman Alan O'Neal made a Motion to go with the service/maintenance contract of \$643.00 with Milton CAT for the generator. It was seconded by Vice Chairman R. Andrew Robertson.

VOTE: Chairman Barry called for the Vote. It was a Unanimous Vote in Favor to sign the maintenance contract.

3. Letter/Avitar Associates/Tornado Damage

Chairman Barry acknowledged that the Board asked Gary Roberge to look again into the petition of a number of residences on lake sides neighborhoods of Deerfield regarding the changing of neighborhood code from D to E due to the tornado damage. His letter states that he doesn't feel that is something we should do based on the assessing point of view. Chairman Barry stated it is the Board's decision, but feels that the Selectmen should go with the recommendations of our assessor. Selectman Hooker stated that he agrees for the reasons he put in the letter and asked if Penny Touchette, Assessing Clerk, should notify the petitioners and include Mr. Roberge's letter. After discussion, Chairman Barry asked that a letter be written to all the petitioners from the Board of Selectman stating at this time, due to the recommendation of our assessor, that we don't feel that changing their neighborhood code is warranted and to include a copy of Gary Roberge's letter.

4. Letter/Town Counsel/Noise Ordinance Review

Chairman Barry acknowledged a letter regarding questions concerning zoning violations. In summary, it states there is nothing the Board can do unless it comes up with specific ordinances of its own. Chairman Barry said to leave that for the Board; if someone wants to try to put a specific ordinance forward to bring it up here. Selectman Hooker brought up the current use and believes they have to still to renew their plan and respond back to the Board on their request for that. Vice Chairman Robertson suggested keeping in mind the potential ordinances here; we have three sites that relate directly to this matter and he has personally received complaints about all of them. The Board has received a formal complaint from a large group and is worth taking a look at what other communities have for ordinances regarding this. Vice Chairman Robertson volunteered to do this research to bring forward to the Board. Chairman Barry agreed and the Board will revisit this issue after this research is done.

5. E-Mail/Quorum/Majority of Members

Chairman Barry stated that there is some question as to whether or not the Municipal Budget Committee (MBC) actually had a quorum when they took actions on June 23, 2009. Chairman Barry suggested sending a letter to MBC Committee for clarification on whether they had a full quorum. Chairman Barry asked Don Daley, Vice Chairman of the MBC who was present, if there were six people present during the meeting in which decisions were made, including the appointing of a new member. Vice Chairman Don Daley stated that at this meeting in June there were only five members present and it was a group decision based on Lorena's resignation, that out of those ten members on the Committee, that five would be a quorum. Mr. Daley noted that he was not sure if anyone has clarified that with the State.

Chairman Barry stated that based on the RSA's (quoting one, but no specific number stated) "means the convening of a quorum of the membership of the public body or the majority of the members of such public body, rules of that body define quorum as more of the majority". Chairman Barry noted that in his opinion, the bottom line is if you have eleven members, you need six to have a meeting. Chairman Barry believes it is not the amount of members actually on the board; it's how many could be in the quorum of that number. The Board of Selectmen (BOS) feels if the MBC appointed a new member while having less than a quorum, it legally cannot take action and the appointment needs to be redone with a legal quorum. Chairman Barry stated that the message the BOS would like to send back to the MBC is that the BOS doesn't feel that they had a quorum and the meeting was not legal. Further, they need to get at least six members together to redo all business done at that meeting. Selectman Hooker noted that the BOS asked LGC for an opinion on this RSA and their opinion was if the Committee specifically have a quorum specified more than a majority than you would have to have that and if you do not have something that is higher than a majority, than a majority is what the RSA calls for. He noted that even if the Committee had ten members the major is not five, it is six, making it 50% plus one. Vice Chairman Robertson suggested to send a letter to the Chairman of MBC Committee stating that it is of Board of Selectmen's opinion that a quorum was not

present on June 23, 2009 in which they appointed Mr. Carbonneau into the position and that they need to have another meeting with a full quorum to redo any and all actions done that night.

Unfinished Business/Other Business/New Business:

Highway Shed/Gas Tank

Selectman Walt Hooker asked for status on the highway shed regarding the gas tank and retaining area filing with water. Chairman Barry was unable to find Alex Cote last week as he was on vacation. Selectman Hooker also asked about the sign at the end of Brown Road that Alex Cote, Highway Agent and Mike Greeley, Police Chief, were to look at regarding blocking the view of traffic. Chairman Barry advised he will inquire on this again.

Tax Revenue/Request for Reports

Selectman Hooker noted that there was an article in the Union Leader Sunday about assessment, abatements, taxes, revenue, etc., and inquired if the Board needs a report from Kevin Barry on how much we have outstanding in taxes that are still not paid. Chairman Barry asked for the Town Clerk to get back to the BOS on this issue. Vice Chairman Robertson recalls that the Board used to meet with the Town Tax Collector for a report on a quarterly basis. Chairman Barry stated that Kevin mentioned it to him after July 1st and recalls that we were doing rather well.

Transfer Station/Electronic Disposal

Chairman Barry informed the Board that he had a talk with Transfer Station attendants and was informed that the deal to get rid of computer monitors and TVs for \$10.00 each no longer exists and he was quoted a \$25.00 charge for disposing. He advised Chairman Barry that he was going to do further research to find another person to honor the \$10.00 fee and Chairman Barry advised him not to take anything this weekend, pending a meeting of the Board of Selectman. Chairman Barry asked the Board if the Town wants to subsidize the cost or raise the fee. Vice Chairman Robertson stated he would have a hard time asking the people to pay \$25.00 for a single item at the Transfer Station when they are already paying a fairly heavy tax bill. He feels that if we refuse to take them for even a weekend we are likely to put Leonard Mandigo, Transfer Station Attendant, in danger of physical harm when people get there with their TV and find out they can't leave it and the \$25.00 fee is going to be more of a headache overall to the Town if we charge it direct. Vice Chairman Robertson suggested that if we need to raise it maybe to \$12.00 to help us a little, but is not in favor to charge people \$25.00 to leave a TV. Selectman Hooker stated his difference in opinion, as unlike the State that just raised fees to increase revenue, we could have an expense of \$25.00 per item and feels that we should raise the fee to \$25.00 because that is our cost. Chairman Barry stated if the tipping fee was to increase 25% tomorrow, we would have to eat it this year and raise the rate next year, because we are a Town that runs a Transfer Station for the citizen's trash. It was suggested that the Board could say that the numbers went up last year and we overspent our budget because of it and now this year we have to budget more. Chairman Barry agreed with Vice Chairman Robertson's idea, as we are seven months in and we should eat it and budget for it next year, based on the number we have. Chairman Barry suggested keeping it at \$10.00 until have clear idea of what we are going to be able to do and we will budget for it next year. Selectman Hooker stated that he is not willing to raise the rate yet until we know what it is really going to cost. Selectman O'Neal suggested to let the Transfer Station know that they can still accept them for \$10.00. Chairman Barry agreed to speak to the Transfer Station on this decision.

Police Detail Report

Chairman Barry asked if there was any other business and Selectman Alan O'Neal ask to follow-up with the Chief of Police for the Police Department Detail Report previously asked for.

Town Administrator's Report

Chairman Barry acknowledged a Town Administrator's report that the 2008 Audit is ongoing and will be completed no later than August, in which she will be scheduling an appointment with the Selectmen for this.

Chairman Barry acknowledged the New Hampshire Retirement System's changes in the rate for retirement contributions have driven changes to the software. It was noted that Cindy Kelley is working with Muni Smart to accomplish correct reporting for the new rate. It has not been a quick fix, but a long and time consuming process.

Chairman Barry acknowledged the George B White Building archives room in the lower level that experienced water damage due to condensation blocking a drain pipe from the air conditioning unit belonging to Yanni's. Nothing was permanently damaged.

Chairman Barry noted the Board just talked to the Library Trustee about the backup unit for lift.

Chairman Barry informed the Board that the IT Administrator saves the Town's pertinent information on a CD, concerning the Town's network and placed a duplicate copy in a secure location. Should anyone be stepping in this position in the future, the information will be quickly available and serve as a guide as to how Deerfield's network is structured. Chairman Barry feels that is a great idea.

Chairman Barry noted that the Welfare Administrator has several Girl Scouts working on Gold Projects that they will bring to the Board of Selectmen. The plan is to beautify several properties on Griffin Road damaged by the tornado.

The Committee had no questions for Town Administrator at this time.

Citizen's Comments:

Kathy Shigo asked if the Board had found a Transfer Station Manager or volunteers yet. Chairman Barry confirmed there has been no more interest at this time.

Maureen Mann stated that Goodwill takes monitors and suggested to put up sign at the Transfer Station for those who don't want to pay to take it to Goodwill, Chairman Barry said he'd mention this to the Transfer Station Attendants.

Adjournment:

6:31pm Selectman Walter Hooker made a Motion to Adjourn. Seconded by Vice Chairman Andrew Robertson. Chairman Barry called for the Vote. It was a Unanimous Vote in Favor. The July 27, 2009 meeting is adjourned.