

**TOWN OF DEERFIELD  
BOARD OF SELECTMEN**

**August 16, 2010  
MINUTES**

**Call to Order**

5:30pm: Chairman, Stephen Barry called the meeting to order.

**Pledge of Allegiance to the Flag**

Chairman Barry asked all to rise and pledge allegiance to the Flag.

**Present:** Stephen R. Barry, Chairman; Alan E. O'Neal, Vice Chairman; John Reagan and Bill Perron, Selectmen

**Absent:** R. Andrew Robertson

**Also Present:** Leslie A. Boswak, Town Administrator and Nese Farrell, Recording Secretary

**Citizen's Comments:**

None

**Conservation Commission/ Alvah Chase Property Legal Bill**

Present: Erick Berglund & Serita Frey

Erick Berglund stated that the Alvah Chase case goes back to April of 2009 and there was an intent to cut filed by the Town; the Deerfield Conservation Commission (DCC) reviewed the intent to cut and it looked like there was harvest area in that Town Forest. The DCC found an issue and asked the Board of Selectmen (BOS) to delay approving the intent to cut so that they could research further. The DCC hired a surveyor and paid their cost of \$1,700.00. He said they found that the Town took the property in 1980 for tax non-payment. The DCC informed the BOS of the results of the surveyor and the Board took over the problem. He said the DCC did not hear anything about it again until this summer (2010). The BOS informed the DCC that the case had been resolved and there were \$5,000.00 in legal fees that were incurred and requested the DCC pay it out of the Conservation Fund.

Mr. Berglund said the DCC gave this careful consideration and offered to pay half of the total costs incurred. The Board contends that the DCC is fully responsible, per the RSA, to manage and control conservation land and they feel the DCC is responsible for the cost to correct this problem. The Conservation Commission does not agree with that statement, as the issue was inaccurate tax maps and invalid land ownership records. The DCC is not responsible for inaccurate tax maps and the land ownerships, as it is the responsibility of the Town; RSA 31, Section 31:95-A, under the Powers & Duties of the Town. He said if the Town's land ownership records and tax maps were accurate, this problem would not have occurred.

Mr. Berglund said the DCC can only use the Conservation Fund for the purposes stated in RSA Chapter 36A. Correcting tax maps and land ownership records is not the DCC's responsibility and that is why they cannot pay the entire bill. The Commission consulted with the Town Attorney, Jim Raymond, the Local Government Center and the New Hampshire Association Conservation Commission regarding this issue. The feedback was that the Conservation's offer to pay 50% percent of the total of the cost was very generous. The DCC understands the budget pressures of the Town and will assist as the law permits and feels they have gone above and beyond in offering to pay half of the cost to resolve this problem. The Conservation Commission has already paid the \$1,700.00 fee for the surveyor and believes their offer is a fair and reasonable offer; to pay half of the \$6,700.00 total fees.

Vice Chairman O'Neal said he understood that the Conservation Fund is to defend, purchase, maintain and protect conservation land, and asked if someone violates a conservation land, would they not use that fund to defend it. Mr. Berglund said it used to defend conservation lands, not parcels and it turned out that land was not conservation land or the Town's land. Vice Chairman O'Neal felt the BOS was taking the position from the Conservation Commission to defend what was believed to be our land. He feels that the funds are there in the Conservation Fund.

Serita Frey said that until they got this bill, the DCC was not aware any of these legal fees had accrued.

Chairman Barry said the BOS does not have a lot of money available as the legal funds are exhausted and they hope the Conservation Commission will help out with their fund that can be used to handle buying and protecting land.

Mr. Berglund stated the DCC would be willing to help out, but legally they cannot do it, as the Conservation Fund is not available for this kind of expenditure. The DCC feels that helping them out with half of the bills is extending their help beyond what they should do.

**MOTION:** Selectman Reagan moved to pay half of the balance of the legal fees.

**SECONDED:** Vice Chairman O'Neal seconded the Motion.

**VOTE:** Chairman Barry called for the Vote. It was a Unanimous Vote in Favor.

Permit Protection: Mrs. Frey said the DCC wants to move forward carefully on that issue, due to the warrant article being advisory only and not non-binding. The DCC will update the Board after further speaking to the Town Counsel. The DCC feels that the RSA does allow them to spend the money for this purpose, but they want to double check on that.

### **Police Department**

#### 1. Highway Safety Grant Information:

The Board received a letter from Chief Greeley stating that the New Hampshire Highway Safety Agency has informed the Town that by reducing the empty position it will make the Town ineligible to qualify for the federal fund grant.

Chairman Barry asked if it has been used for anything other than DUI and safety patrol checks. Chief Greeley said he cannot answer that, because he does not know if it is also based on the Highway Department. He was told that if the position is kept there but it is not funded, it will still cover it.

Vice Chairman O'Neal said the letter appears as they may still be eligible, but they just could not do it on overtime. Chief Greeley said the only way those extra patrols could be done is in overtime. He said they are in addition to the officer's regular patrol so that they do not have them paying over and above for overtime for the officers to go out and conduct those patrols. He confirmed that by eliminating that position, they will not fund those patrols.

#### 2. Statistical Report from Prosecutor Update:

Chairman Barry said the Board has not kept on this, but when it was first instituted they talked about following it and charting it to see the value of it. Chief Greeley said the value of it pays for itself and then some. He said that in 2009 the prosecutor conducted 273 cases at the Candia Court alone (no ALS hearings or juvenile cases) and the officers were involved in 204 cases (as far as trials). He said the court date for today alone was 26 cases (for trials) and that these numbers are not including the arrests that are entitled to an attorney. He said the prosecutor handles all the requests and reports so that the department does not have to do that anymore, which makes it very worth the monthly payment to him.

Vice Chairman O'Neal asked if the Town had signed a contract with the prosecutor. Chief Greeley confirmed they have not. Selectman Reagan referred to the report of 273 cases and asked if it includes the 205 officer cases. Chief Greeley said it does include the officer cases as the prosecutor is there for all the trials.

Vice Chairman O'Neal asked if there are other prosecutors out there that could possibly be put out to bid and said he would like some statistical data going forward to keep justifying this. Chief Greeley said he could do that from now on and doesn't know if the prosecutor tracks it for his own purposes. He confirmed the prosecutor is a private attorney and that the County Attorneys are relatively the same amount of money.

Selectman Reagan asked what are the ALS hearings were. Chief Greeley said it stands for Administrator License Suspensions; arrests for driving while intoxicated, which will have two hearings.

**Regular Business:**

1. Vouchers/ Accounts Payable Manifest:

Accounts Payable Manifest/ Total \$112,435.89

**MOTION:** Vice Chairman O'Neal moved to approve the Accounts Payable Manifest in the total amount of \$112,435.89.

**SECONDED:** Selectman Reagan seconded the Motion.

**VOTE:** Chairman Barry took a Vote to approve the Accounts Payable Manifest. It was a Unanimous Vote in Favor.

2. Signatures:

A. Signatures Requiring a Vote

1) MS-1 Extension Request Form

**MOTION:** Vice Chairman O'Neal made a Motion to request the extension.

**SECONDED:** Selectman Reagan seconded the Motion.

**VOTE:** Chairman Barry called for the Vote. It was a Unanimous Vote in Favor.

2) Refund Request/ \$99.00 Central Tree Services/ Auto Registration

**MOTION:** Vice Chairman O'Neal made a Motion to approve the refund.

**SECONDED:** Selectman Reagan seconded the Motion.

**VOTE:** Chairman Barry called for the Vote. It was a Unanimous Vote in Favor.

3) PA-16 Application for Reimbursement to Towns & Cities in which Federal and State Forest Land is Situated 2010

**MOTION:** Vice Chairman O'Neal made a Motion to sign the application.

**SECONDED:** Selectman Reagan seconded the Motion.

**VOTE:** Chairman Barry called for the Vote. It was a Unanimous Vote in Favor.

B. Signatures Not Requiring a Vote

None

3. Review of Correspondence:

Highway Department generator has been ordered.

4. Unfinished Business:

None

5. Town Administrator's Report:

A. The Energy Grant Committee is in the RFP process and the deadline for both the Transfer Station and the Green House is August 30<sup>th</sup>.

B. Town Hall Shutter Maintenance invitations were prepared by Mark Tibbetts and the deadline is August 30<sup>th</sup>. He believes he can cover the cost of this in this year's budget.

C. The Highway Department generator has been ordered.

D. Cemetery Update; the only cemetery in town that has openings is Old Center Cemetery. Roger Hartgen

says there are plenty of lots available.

- E. Town-Wide Revaluation; Avitar will be here on Thursday the 19<sup>th</sup> to deliver the final assessments. It will be put on the town server and will be ready to submit to the State. Once the State is all set, Lionel MacEachern from DRA and Lauren from Avitar will present it to the Board.
  - F. USPAP Manual (part of the RFP); all the preliminary analysis and everything up to the informal hearings were available for anyone coming in.
  - G. Police Department responded to a noise complaint at a party on the weekend. Officers Hardy and Pelletier responded. The host and guests were impressed with how the two officers handled themselves. Selectman Robertson sent an email stating that he was very impressed on how the officers responded to the call.
  - H. The Town Administrator requests rescheduling the BOS meeting for signatures that is scheduled for Tuesday, September 7<sup>th</sup> to a morning meeting, as it includes payroll (payroll day is Tuesday). The Board agreed to hold that meeting at 8:00 a.m.
  - I. Trees cleanup on the intersection of Rt-43 and Rt-107 was completed today by the Highway Department.
  - J. Matthew Kimball will be presented with Master Roads Scholar in Concord tomorrow. Vice Chairman O'Neal suggested the Board present Mr. Kimball with a congratulations letter.
6. Other Business:

**MOTION:** Selectman Reagan moved to eliminate the second citizen's comments.

**SECONDED:** Selectman Perron seconded the Motion.

**VOTE:** Chairman Barry called for the Vote. It was a Unanimous Vote in Favor.

7. New Business:  
None

**Citizen's Comments:**

Maureen Mann stated that if the second citizen's comments are removed, then anyone that attends and sits through the whole meeting waiting to comment on the topics that were discussed will not be able to. She feels it would be better to remove the first citizen's comments. Selectman Reagan said this would not preclude questions from the press for clarity.

Chairman Barry said to try it for a meeting or two and see how it works out. Joel Hughes stated that he is disappointed as that is his favorite part of the meetings, but he understands their point.

Harriet Cady said she sent the Town Administrator an email today regarding the energy grant and that she'd gotten as far as she could get with her contact. She was referred to another contact to try to get money towards an energy grant. She said that the energy audit done on the lights did not do anything for the grant request. She is going to meet with her other contact and offered for a Selectman to attend.

Mrs. Cady said she filed a Right-to-Know request regarding the current use money that is for the Conservation Commission's use. She claims that Kate Hartnett and Erick Berglund were on the Bear Paw Board at the time. She said under RSA 36 there is a section that was just adopted, that said they could do contracting with the non-profits. She will be attending a court case specifically on the challenge of land being transferred into these non-profits. She wondered if the Board had looked closely to what the DCC was paying from their fund to Bear Paw.

Walter Hooker referred to the vote on the DCC splitting the cost and asked if all of them voted. Chairman Barry confirmed it was a Unanimous Vote.

Mrs. Mann said Mrs. Cady brought that up before about Kate and Erick being on the Bear Paw Board and it was already clarified that they were not on that Board at that time.

Mrs. Mann questioned about a warrant article not being binding. Chairman Barry confirmed that it was non-binding. Selectman Reagan said it is the sense of the meeting. Chairman Barry said it was a Vote; the command of the tax payer. Vice Chairman O'Neal said his position on it is that it can be done because the Town voted on it, but they may not be able to do it because it is non-binding.

**Adjourned:**

6:13 pm

**MOTION:** Vice Chairman O'Neal made a Motion to adjourn.

**SECONDED:** Selectman Reagan seconded the Motion.

**VOTE:** Chairman Barry called for the Vote. It was a Unanimous Vote in Favor.

The August 16, 2010 meeting is adjourned.

*The Minutes were Recorded, Transcribed and Respectfully Submitted by Nese Farrell, Recording Secretary.  
Pending Approval by the Board of Selectmen*