

SELECTMEN'S MEETING – FEBRUARY 25, 2009

*Minutes are not final until reviewed and approved by the Board.
Review and approval of minutes generally takes place at the next regularly scheduled meeting.*

ATTENDANCE

Selectmen Nancy L. Carlson, Bruce L. Tatro, and Deborah J. Davis. Town Administrator Elizabeth Fox also was present.

FINANCIAL MATTERS

Selectmen reviewed and approved accounts payable and payroll manifests.

CALL TO ORDER

Chairman Carlson called the meeting to order at 6:15 p.m.

INFORMATION

Potential impacts of proposed State budget Selectmen reviewed a 2/20/09 editorial, "NH Towns Mustn't Be Left in Lurch on Budget," that appeared in a seacoast paper. Issues of concern include:

Proposed suspension of revenue sharing, and rooms and meals revenues. Fox advised Selectmen that the impact would amount to a loss of \$400,000 of revenue that currently is used to offset costs of municipal operations, adding \$0.82 to the \$4.16 rate assessed in 2008.

Proposed 5% reduction in the portion of retirement costs paid by the State for police and fire personnel, from 35% to 30%. Basing her analysis on 2009 budgeted payroll numbers and applying the rates that would result from the proposed reduction in the Town's NH Retirement System, Fox calculates that costs for police and fire would increase at least \$9,200 in the first fiscal year.

Court changes proposed Selectmen discussed proposed changes to the Cheshire County Court system that call for shifting District Court to Court Street and Superior Court to Jaffrey. Police Chief Busick supplied the Board with an assessment of the proposal's impact to the Swanzey police department.

ZBA hearing – equitable waiver Selectmen reviewed notice of a March 2, 2009 Keene ZBA hearing regarding a petition of Philip Lariviere and Margaret Freeman for property located at 52 Matthews Road. The request is to have an existing barn located 2.12 feet from the side property line, where 10 feet is required.

LGC property-liability coverages rates Selectmen received notice from LGC advising the Board that rates will increase 5% in July 2009. Depending on the final budget and other factors, such as fleet size, this could result in an estimated premium savings of approximately \$2,000 over what has been budgeted.

CITIZEN CONCERNS – none pending

DEPARTMENT REPORTS – none scheduled

APPOINTMENTS –

6:15 -- 7:35 Town Counsel Beth Fernald (see **OLD BUSINESS**)

6:45 -- 7:30 Ronald Gocht – East Shore Road (see **OLD BUSINESS**)

7:38 – 7:50 Jim Petry – US Census 2010 (see **NEW BUSINESS**)

7:50 -- 8:23 Jim Phippard, Moore Nanotechnologies (see **OLD BUSINESS**)

NOMINATIONS – Fox will post notice that the Town seeks nominations for

- Conservation Commission

- CIP Committee
- SRDD Advisory Board
- Open Space Committee
- Recreation Committee
- Cable Commission town representative

CONFIRMATIONS – none scheduled

ENFORCEMENT – none scheduled

PUBLIC HEARINGS – none scheduled

CONSIDERATION OF OLD BUSINESS

Moore Nanotechnologies conservation easement. Jim Phippard, Brickstone Masons, discussed with Selectmen provisions in the proposed conservation easement regarding indemnification. Phippard said that, in his experience with entities like the NH Trails Bureau, it is common practice to name the underlying property owner as an additional insured party.

Town Counsel has advised the Board that the Town should not agree to provisions to indemnify the Town. Fox anticipates a response to the issue from the Town's insurance carrier. Counsel further recommends amending the easement to allow access to the property for vehicles responding to an emergency situation.

Phippard and Fox will follow up when more information is available.

Legere flood storage easement Phippard and Selectmen discussed completion of outstanding issues, including road repairs, gating the entrance, and adjusting the boundary line. Those present agreed that requested items all had been accomplished. Phippard said that he was preparing a plant list to place an order for spring planting, and the group considered instead keeping the area open with twice-annual mowing. Selectmen agreed to support the original decision to request a mix of plants. Working from UNH Cooperative Extension recommendations, Phippard will determine what plants are commercially available, compose a list for a March order, and submit the list to the Board and Conservation Commission.

Those present agreed that the land transfer was to have triggered execution of the flood storage easement, and noted that the land transfer has been recorded at the Registry of Deeds.

Motion by Tatro to execute the Legere flood storage easement, Attachment #1. Second by Davis. All in favor.

Gocht septic system easement With Town Attorney Fernald, Selectmen reviewed correspondence, the status of the easement, and potential solutions. Selectmen endorsed changing language of the deeded easement to reflect the location of the Gocht leach field relative to the now-corrected property line, and felt that it would be appropriate for the Gochts to bear the expense of making this change.

Regarding changes to the septic system itself, Fernald advised the Board that, in general, the law expects easements to accommodate uses that evolve – for example, roads must change to bear new kinds of traffic. In the Gocht case, however, the original Town Meeting vote to approve the easement tied the easement to the existing cottage – then, a seasonal structure -- and explicitly permitted repair to the septic system, but did not explicitly permit replacement of the septic system. For this reason, Fernald said that a different septic system triggers the need to conduct a public hearing process pursuant to RSA 41:14a. Fox noted that the Town lacks records that might clarify the intention of the Town Meeting vote.

Fernald said that the Town deserves protection against any liability in case of a system failure. The group agreed that all such issues are immaterial unless the ZBA grants the area variance requested by the Gochts. Fox reported that the Gochts have filed a request for re-hearing of their recent ZBA application, and a request that the ZBA consider a third plan.

Nancy Gocht, Ron Gocht and Russ Gocht arrived to discuss the matter. R. Gocht expressed his family's willingness to create an updated or amended easement to reflect the

corrected boundary lines and leach field location. He expressed his family's willingness to indemnify the Town in the case of failure of the septic system, and to attach indemnification language to the property deed for future owners.

R. Gocht presented information detailing the technology of the proposed replacement septic system, which would allow expansion of the capacity of the leachfield in an area smaller than that occupied by the existing leachfield.

The group discussed various perspectives on reasonable expectations regarding changes to the septic system. R. Gocht acknowledged that the presence of the leach field creates a burden for the Town, but noted that an upgrade would not change the burden.

Selectmen asked whether the Gochts would upgrade the system if they did not expand the size of the cottage. R. Gocht stated that the system has been lightly used during its 30-year existence, and continues to function well; the pump is original. He stated that the system would be fine if the cottage were not expanded, and expressed the intent to use the property as a vacation home for as long as the family continues to own the property.

Selectmen asked why the septic system could not be located on Gocht property. R. Gocht stated that the family has not looked into this possibility. He said that building the new system on the family's land would be more expensive, would be more obtrusive, would have more impact on their property, would result in locating the system closer to Swanzy Lake, and would require removal of trees that might necessitate amendment to the Shoreland Protection Act permit. Selectmen noted that adequate open space for the septic system appears to exist on the Gocht parcel. Ron Gocht agreed, stating that the original system was designed for location on Gocht property. (A neighbor encouraged siting the system on Town land.) Selectmen encouraged the Gochts to research the option of locating the septic system on the Gocht parcel.

The group discussed the Board's authority in making decisions regarding Town properties. Fernald stated that the Town Meeting vote to grant the easement for a septic system designed to serve a particular structure binds the Selectmen to a Town Meeting vote -- or to the public process pursuant to RSA 41:14a -- to authorize changes to the septic system. Those present agreed that the situation would be different if it simply involved two private parties. Selectmen emphasized their responsibility to reflect the desires of Swanzy citizens in making this kind of decision -- in effect, granting an additional right -- regardless of potential positive or negative impacts to the Town. Selectmen stated that the Board would not advocate for or against the replacement septic system, and would make their decision based on citizen input.

R. Gocht noted that the RSA 41:14a process would require the family to present their case to the Conservation Commission and Planning Board, and recognized that objections might require taking the issue to 2010 Town vote. He questioned the applicability of the 41:14a process in a situation where the Town is neither selling nor purchasing property. Gocht said that the family members will formalize their conclusions and discuss the matter with council.

Selectmen said that they will await a decision from the ZBA.

NH-DOT signing and delineation program Selectmen discussed Town participation in the Statewide signing and delineation program for high risk rural roads, and reviewed agreements provided by DPW Director Dunham in follow up to his prior discussions with the Board.

Motion by Tatro to authorize Fox to execute the municipal agreement. Second by Davis. All in favor.

Recycling Center doors Selectmen considered additional information regarding costs and design requirements of replacement entry doors, discussed with S. Stewart at the February 11, 2009 regular meeting.

Motion by Davis to approve the expenditure of \$1,375, to be funded from Recycling Center operating budget, for the purchase and installation of the two doors and locksets. Second by Tatro. All in favor.

CONSIDERATION OF NEW BUSINESS

US Census 2010. Jim Petry, Census Bureau recruiter, attended the meeting to discuss the upcoming Census. Petry provided literature and described new approaches to data collection. He said that recruiting will pick up in August and September, with tests to qualify for Census employment to be conducted at area businesses. He encouraged Town officials to recommend Census work to mature, responsible individuals who may be seeking employment.

Monadnock Youth Soccer. Selectmen reviewed February 5, 2009 correspondence from Phillip Spiess, on behalf of the Monadnock Youth Soccer Club, seeking permission to use a portion of Brown Field. E-mail messages from DPW Director Dunham report that Dunham has assessed the requirements of the use, and has determined that the soccer league could readily coordinate with other uses at the field. Dunham anticipates minimal impacts on the Town and staff.

Motion by Tatro to approve use of the soccer field at Brown Field by Monadnock Youth Soccer Club for the Spring, 2009 season. Second by Davis. All in favor.

Home Occupation Application – Tap Map 32, Lot 19-27 Selectmen discussed an application by Tim and Suzette Autrey, 101 Highland Circle, who seek permission to operate an Internet and consulting company out of a home office with an area of approximately 296 square feet.

Motion by Tatro to approve the use as a qualified home occupation, and to authorize the Chair to sign on behalf of the Board. Second by Davis. All in favor.

Arrowcrest Drive extension Selectmen reviewed a request to accept as a dedicated street an additional length of Arrowcrest Drive. Selectmen authorized Fox to schedule for March 18, 2009 a public hearing, pursuant to RSA 674:40-aIII, to accept public testimony and comment.

North Swanze Water & Fire Precinct boundary amendment Selectmen reviewed a request to change the boundaries of the Precinct. Selectmen authorized Fox to schedule for March 18, 2009 a public hearing, pursuant to RSA 52:5, to accept public testimony and comment.

Donations to the Fire Department expendable trust Selectmen reviewed donations of \$50 (Pullen) and \$100 (F. Guion) to the fund, established by resolution of the Board of Selectmen on February 11, 2009. Selectmen authorized the acceptance and expenditure of a \$25 gift card (Lazzaro family) for purposes supporting a Fire Department activity.

Motion by Davis to accept the donations. Second by Tatro. All in favor.

Funding for municipal fleets: emission reductions. Selectmen reviewed an e-mail message from LGC announcing NH-DES's anticipated availability of Diesel Emission Reduction Act funding. Tatro and DPW Director Dunham will attend the February 27, 2009 information meeting.

Town Hall staffing Selectmen reviewed the Assessing Coordinator position description, designed to support the assessing, land use and executive functions.

Motion by Davis to authorize Fox to initiate recruitment for the position. Second by Tatro. All in favor.

Selectmen considered the Board's approach towards staffing the Deputy Town Clerk/Tax Collector and Assistant Clerk positions, and agreed to initiate recruitment after the March 10 Town election. The Board will revisit the matter at the March 18 meeting.

State of NH budget Selectmen discussed the Governor's proposed budget, and its potential effects on taxpayers and the Town's recommended appropriations. Fox advised Selectmen

that the extent of revenue loss will be unknown until mid June. Selectmen discussed approaches towards making up the likely shortfall.

NH Municipal Association Meeting, March 2. To determine Town positions regarding NHMA proposals, Selectmen discussed options for State budget revenue items. Tatro will represent the Town at the meeting; Fox also will attend.

Department of Justice grant opportunity Selectmen reviewed a February 18, 2009 e-mail message from Police Chief Busick outlining a federal funding program that Busick proposes for creating a full-time detective position. Selectmen noted that the Town would be obligated to retain the position at the completion of the three-year funding period, and agreed to consider the matter at a future meeting.

CONSIDERATION OF MINUTES

Motion by Davis to approve the minutes of the February 11, 2009 regular meeting and non-public sessions. Second by Tatro. All in favor.

CONSENT AGENDA

1. PA 28 Cover letter.
2. Raffle Permit #2009-4, Home Builders.

Motion by Tatro to approve the consent agenda. Second by Davis. All in favor.

NON-PUBLIC SESSION

At 9:14, Selectmen voted unanimously by roll call to enter non-public session, pursuant to RSA 91-A:3IIa, to discuss personnel. Present were Carlson, Tatro, Davis, and Fox.

Selectmen left non-public session at 9:20 p.m., voting by roll call to seal minutes of the session indefinitely.

ADJOURNMENT

Motion by Davis to adjourn; second by Tatro. All in favor. The meeting adjourned at 9:30.

Respectfully submitted,

Victoria Reck Barlow
Recording Secretary

LIST OF FUTURE AGENDA/PENDING ITEMS

1. Personnel policy updates – drafting of updates ongoing.
2. Disposition of South Grove Street Land acquired by tax deed - pending.
3. RFP – Town Facilities assessment.
4. Subdivision Road Standards. Draft developed by DPW Director Dunham distributed to Selectmen. Review pending. Winter Maintenance draft – BOS suggestions re-worked at provided to Dunham 1/5 for final review before forwarding to Town Counsel as requested for an opinion.
5. Street Addressing Committee. Review of file and project status underway. Committee meeting to be scheduled.
6. Discussion, defining roles and responsibilities between Selectmen, DPW and West Swanzey Sidewalk Committee. Research underway. 2009 work plan discussed with committee.
7. Town ordinances – Fireworks. Further consideration deferred to allow for input of full time fire chief following hiring.
8. Carpenter Home Properties – Discussion with counsel re: options. Authorization to investigate pending.
9. Westbrook Court – Class VI – Camuso (Richmond).
10. Old Home Day Committee recruitment.