

## Sullivan County NH

**Type of meeting:** Board of Commissioners Regular Business Public Meeting Minutes

**Date/Time:** Tuesday, October 30, 2007, 3 PM

**Place:** Unity County Complex – Ahern Building

**Attendees:** Commissioner Ethel Jarvis – *Chair*, Bennie Nelson – *Vice Chair* and Jeffrey Barrette – *Clerk*; Ed Gil de Rubio – *County Manager*; Sheriff Michael Prozzo; Marc Hathaway (left soon after the meeting was called to order) and Sharon Johnson-Callum (minute taker).

**Public attendees:** Aaron Aldridge – *Eagle Times Staff Reporter*; William Roach – *Sunapee Town Select Board Chair*; Suzanne Gottling – *State Delegate*; Peter Franklin – *State Delegate* (arrived later).

**3:23** The Chair, Commissioner Ethel Jarvis, brought the meeting to order. Marc Hathaway led all in the *Pledge of Allegiance*, and then left the room.

### Agenda Item No. 1 Meeting Minutes

#### Agenda Item No. 1.a. Oct. 2, 2007 3 PM Public

**3:25** Commissioner Barrette moved to accept the October 2, 2007 public minutes as written. Commissioner Nelson seconded the motion. There was no discussion. A voice vote was taken. The motion carried, unanimously.

Agenda Item No. 1.b. Oct. 2, 2007 Executive Session (3:29 PM RSA 91:A-3.b. & c)  
It was noted "Regular Business" should read "Executive Session".

**3:26** Commissioner Nelson moved to accept and unseal the October 2, 2007 3:29 Executive Session minutes, with amendment. Commissioner Barrette seconded the motion. There was no discussion. A voice vote was taken. The motion carried, unanimously.

Agenda Item No. 1.c. Oct. 2, 2007 4 PM Executive Session (4:15 PM RSA 91:A-3.II.b)  
It was noted "Regular Business Meeting" should read "Executive Session"

**3:27** Commissioner Barrette moved to accept and unseal the October 2, 2007 4:15 Executive Session minutes, with amendment. Commissioner Nelson seconded the motion. There was no discussion. A voice vote was taken. The motion carried, unanimously.

#### Agenda Item No. 1.d. Oct. 16, 2007 Public

**3:28** Commissioner Barrette moved to accept the October 16<sup>th</sup> [public] minutes, at written. Commissioner Nelson seconded the motion. There was no discussion. A voice vote was taken. The motion carried, unanimously.

Agenda Item No. 1.e. Oct. 16, 2007 Executive Session at 5:02 PM

It was noted the words "Regular Business" should be "Executive Session" and remove the words "Public Portion" in the title.

**3:29 Commissioner Barrette moved to accept and permanently seal the October 16, 2007 5:02 Executive Session minutes, with amendment. Commissioner Nelson seconded the motion. There was no discussion. A voice vote was taken. The motion carried, unanimously.**

Agenda Item No. 1.f. Oct. 16, 2007 Executive Session at 5:33 PM

**3:29 Commissioner Nelson moved to accept and keep sealed the October 16, 2007 5:33 Executive Session minutes. Commissioner Barrette seconded the motion. There was no discussion. A voice vote was taken. The motion carried, unanimously.**

Agenda Item No. 1.g. Oct. 16, 2007 Executive Session at 5:52 PM

**3:29 Commissioner Barrette moved to accept the October 16, 2007 5:52 Executive Session minutes as typed and release them. Commissioner Nelson seconded the motion. There was no discussion. A voice vote was taken. The motion carried, unanimously.**

Agenda Item No. 1.h. Oct. 25, 2007 Public

Awaiting Commissioner Clerk feedback. Will review at the next meeting.

Agenda Item No. 1.i. Oct. 25, 2007 Executive Session – Litigation Issue

Awaiting Commissioner Clerk feedback. Will review at the next meeting.

Agenda Item No. 1.j. Oct. 25, 2007 Executive Session - Personnel

Awaiting Commissioner Clerk feedback. Will review at the next meeting.

**Agenda Item No. 2 Judkin's Property Pending Conservation Easement Update**

Mr. Bardon Flanders, with the permission of the Board, provided a brief history the Unity Conservation Commission's proposed conservation easement to the Judkin's Property:

- 1996 - The Unity Conservation Commission was requested to prepare an easement on the Judkin's property.
- 2000 - Through a role call vote, the Delegation approved the Board to enter into the easement.
- Shortly thereafter the Board of Commissioners membership changed along with their feelings regarding the issue and the project stalled.
- 1 ½ years ago he made an appointment with Commissioners to resolve the issue. They discussed money, appraisal performed on property, and the Board came back to say that Unity Conservation Commission could purchase the easement for \$43,000.
- They currently have \$19,500 collected but further funding raising efforts have stalled. Mr. Flanders noted he thought the funding raising would be easy, but was confronted with a lot who feel they already own the property, as it's County land.
- At the wish of the Commissioners the Executor on the draft easement changed from the Unity Conservation Commission or Town of Unity, to Society of NH for Protection Forest (SPNHF).

- ❑ As it's easier to raise monies when donors can write the donation off on their taxes, with the Executor changes, SPNHF collected all funds for this project.
- ❑ In doing this, SPNHF, with them as Executor, acquired \$12,000 additional expenses to perform monthly inspections and to use for any legal issues.
- ❑ The Unity Conservation Commission would like the County to consider returning to the original agreement with the Town being the Executor and have the Board accept the amount they collected from SPNHF. He will be checking to make sure these funds can still be considered tax deductible.

Commissioner Nelson clarified \$43,000 represented the difference between the [FMV] property value vs. property with a conservation easement. Mr. Nelson also pointed out several towns came forward when the Conservation Easement was brought up to the Delegation, and indicated they felt placing the property in an easement was like "giving it away", when there was more value to the property without the easement. Mr. Flanders noted the only benefit to the Town of Unity is having the land protected and they would be monitoring the property. Commissioner Barrette noted he'd approve of Mr. Flanders new idea, with changes to Executor, but to place the funds into a County conservation fund to be used only for County land improvements, such as upgrades to access current property, if this type of account was legally permitted. Mr. Gil de Rubio noted the County Attorney had already set an opinion that showed the Board had authorization to set compensation. He also noted the former Board brought the Conservation Easement changes before the Delegation, which received no feedback; however, per the County Attorney, the Board has the right to move forward. Commissioner Nelson agreed to the reduction in funds, but, in lieu of circumstances, would advise placing funds into the General Fund. Commissioner Jarvis concurred with placing funds in the General Fund to track. Commission Barrette would like to table the proposal for another month in order to seek the County Attorney's opinion as whether they can make a motion to place these funds in a specific fund. Mr. Flanders noted when the conservation easement was approved and discussed, all were adamant the property remain open for snow machine travel. He noted the current easement indicates "non motorized" and would like to change the wording to allow snow machines, as they run in the winter and leave less of a mark on property. One of the Board members noted they should not limit the easement to leave out ATV's. Some members discussed the negative effects ATV's have on land. It was noted that the property, rather than the easement document that is more difficult to change later, could be posted against wheeled vehicles, but not necessarily motorized vehicles, such as snow machines.

3:54 Mr. Flanders left the room.

### **Agenda Item No. 3 County Manager's Report**

#### 2008 NHAC Conference

Mr. Gil de Rubio noted Sullivan County would be hosting the 2008 NHAC Conference and closing comments would be expected from the County at the 2007 conference banquet as to where the County would like to host next year's conference. Mr. Gil de Rubio reviewed choices: New Castle's Wentworth By the Sea, Manchester's Radisson Hotel, Dixville Notch's The Balsams, and the Mount Washington Resort in Bretton Woods. After a brief group discussion, Mr. Gil de Rubio confirmed he would entertain the prospect of holding the 2008 conference at the Balsams or Mt. Washington.

3:39 Representative Peter Franklin arrived at the meeting.

#### **Agenda Item No. 5. Public Participation**

##### Firing Range Proposal – Update

Sheriff Prozzo noted they are still in the beginning stages - making phone calls and speaking with people. He noted there has been other property offered, outside County property. He noted he'd return to the Board in January with further updates. Commissioner Nelson indicated the only comment he received from anyone since the idea was broached, was "why can't a range be constructed to accommodate both law enforcement and sportsman".

#### **Agenda Item No. 4 Commissioners Report**

Commissioner Jarvis indicated she attended the recent Delegation meeting. She read verbatim the motion passed at the meeting, which was as follows:

*"The following motion was made, seconded, and passed at the October 29, 2007 meeting of the Sullivan County Delegation: All funds appropriated for all line items in the 2008 fiscal year Sullivan County budget shall be non-transferable without prior approval of the Executive Finance Committee or the full County Convention in accordance with RSA 24:14. The one exception is that the Commissioners are authorized to transfer funds within a department from one line item to another in the amount not to exceed \$5,000. Each and every transfer below \$5,000 shall be reported to the Executive Finance Committee in writing within a week of the transfer. The transfer information shall include the purpose of the transfer, the line item from which the money comes, and the line item to which the money will go. A transfer of less than \$5,000 shall not occur more than once unless approved by the Executive Finance Committee or the full County Convention. The positions listed in the 2008 county budget constitute the authorized positions for fiscal year 2008. No new positions may be created without approval of the Executive Finance Committee or the full County Convention."*

She noted:

- Representatives from Melanson Heath and Associates attended the Delegation meeting. She was surprised to see them there prior to meeting with the Board.
- The meeting was televised.
- She was surprised finance discussions were not on today's Commissioners agenda.
- Auditors clearly indicated, before the County can receive the final report, the Board needs to:
  - create a plan on how to handle the 2.27 deficit and pay bills, and
  - review the auditor's request to eliminate Fund 30 and 42. She approves of eliminating Fund 42.
- Auditors stated Sullivan County Health Care never saw any type of surplus.
- Financials need to be in order before they approve any new projects.
- They need to include Fund 50 in reports to Commissioners.
- She was appalled to hear at the meeting there was a grant fund deficit.
- She wants the plan completed prior to the auditor's 11/20 deadline.

Commissioner Nelson reminded them they were waiting for town assessment numbers to cover last year's operating deficit of 2.15. Mr. Gil de Rubio confirmed Paul Brown was retained and is trying to catch up with DRA Barbara Robinson, in order to complete the County's requested spreadsheets. Commissioner Nelson reminded all they discussed two options as a plan of action at their previous meeting: 1) a bond or 2) supplemental budget; and, since that discussion, they discovered a bond is no longer an option.

The Board concurred to meet **Thursday, November 8<sup>th</sup> 6 p.m.** to complete their plan of action.

Commissioner Jarvis entertained a motion to bring all departments under control. The motion failed, as there was no second.

Commissioner Jarvis asked if they were going to address Fund 42. Commissioner Barrette noted they were meeting Thursday to discuss this issue.

Commissioner Jarvis noted she received a report on the County line of credit of 8.5 million. She then asked what the current Sullivan County Health Care census was. Mr. Gil de Rubio confirmed it was hovering between 137-140.

Commissioner Barrette proposed including an Executive Session to finish personnel discussions.

Commissioner Jarvis asked how funding comes into the Sullivan County Health Care, if it was received all electronically? Mr. Gil de Rubio noted they receive both electronic and cash/checks.

Commissioner Jarvis requested public input

#### **Agenda Item No. 5 Public Participation**

Rep. Peter Franklin indicated the auditors discussed both the audit financial statements and the management letter. He feels the management letter is very clear that there is a management problem. He noted the audit displayed a revenue shortfall of ½ million and over expenditure of 1.7 million in appropriations. He is unclear on how it happened. He noted a question was asked of the auditors if the County had controls to prevent over expenditures and until those issues are resolved, trying to raise money does not fix the problem. He noted the transfer motion passed is an attempt by the Delegation to stem this kind of spending. He noted the RSA 24.15 Exceeding Appropriations is very simple and clear - It's against the law for any official, appointed or higher, to expend money above an appropriation or to spend that is not appropriated. He asked for final budget vs. expenditures report submitted by management to auditors, which auditors based their report on. Commissioner Jarvis pointed out Representative Franklin received a report from the auditors that the Board had not received. Rep. Franklin noted the auditors report listed a \$400,000 Assisted Care Business Plan which was not budgeted for and had never been discussed. Board members requested a copy of the document. Mr. Franklin noted he would be happy to share a copy but that they could get the numbers in a different format at the Business Office.

Representative Gottling feels the meeting was very "sobering", is on tape and encouraged all to review it. Mr. Franklin confirmed it was aired by NCTV yesterday and this morning and would be shared with CCTV. Commissioner Jarvis noted, if the audit is not finalized the County cannot continue to function, she asked for confirmation of this from Representative Franklin. Mr. Franklin noted the auditors would not give out a signed audit without the Board providing a plan with how they will pay the deficit to continue on as a business. He noted the last three audits were done by Melanson & Heath, there is a slight difference in format this year, but otherwise they could compare from one year to another and the deficit has been building.

Representative Gottling, noted, in terms of Fund 50, they were open PO's being paid out of this years money, but belonged in the previous year, 1.2 million incurred and should have been paid. She noted it was carried over in a way that was not correct. Representative Franklin indicated the auditors noted there should be monitoring of financials, there should be a trial balance and that Mr. Biron indicated the trial balance should show encumbrances in each quarter. He pointed out Graham & Graham trial balance did not reflect those.

Rep. Gottling noted there was a clear difference between encumbrances and what was carried over; encumbrances being items budgeted. She indicated, we asked for cash flow quite early and did not get a true one until June - by then the budget was virtually finished. She feels the Board needs to view incoming revenue and adjust expenditures accordingly based on revenues.

Rep. Franklin noted the auditors recommend a balance sheet to see where the County is at each moment.

Rep. Franklin indicated he brought up to the auditors the fact grants are included in the County budget; although grant agencies are independent 501.c they are carried on the books and show a combined deficit in Fund 24 of \$150,000. He feels management should make efforts to collect this money, as it's part of the 2.2 million deficit; if not budgeted there should be no appropriation.

He advised the Board to seek reimbursement from Genesis, as they were not paid according to their contract, with a fixed amount to the Administrator, and the severance package should be refunded. He commented the nursing home budget was managed by Genesis and there was no legal authority to pay Genesis more than the contract.

Representative Converse indicated he was part of the EFC for three years yet never heard of Fund 50 until the auditors spoke of it at their meeting.

Mr. Roach noted his statements should be considered from the general public. He feels there is a fatal flaw in management, they do not have truth in packaging, as late as June their Sunapee Manager assured them they would not be increasing taxes, unsure why there is no monthly comparison of budget. He noted the County should let help go and cut down on services to overcome the shortfall in budget. He is upset the County has let it go to a 2 million dollar deficit and then a Commissioner is quoted as saying taxpayers must pick this up. Commissioner Barrette interjected that the statement he made at the meeting was mischaracterized in the paper. Mr. Roach feels the Board should make sure the Manager is doing his job in monthly statements. He indicated he did research and found that Sullivan County is the only one with a County Manager, that all other

counties are run by Administrative Assistances or Commissioners and that the County has the second highest paid Executive in the state.

Commissioner Jarvis noted this would be taken all under advisement and reviewed at their Thursday meeting.

Representative Franklin indicated the Delegation wishes to work cooperatively with the Board, and it should not be a battle between Board and Delegates, that, all are working to keep the nursing home operating and provide high quality of service at the nursing home.

Representative Gottling asked if the idea of combining DOC facilities with other counties was brought forth. Commissioner Jarvis confirmed the idea was brought up at the Sullivan County Criminal Justice Coordinating Committee meeting, held just prior to this meeting, but was "shot down by the Committee". Mr. Gil de Rubio confirmed he had approached Cheshire previously on this subject, but they were not interested. It was noted Grafton and Sullivan County Boards met to discuss this issue, also, with the results being that each County's individual needs assessments were different. Representative Franklin noted the Delegation voted to approach the committee. Commissioner Jarvis noted no Delegate attended the committee meeting today. Commissioner Nelson indicated the Board held an earlier meeting with Grafton, with the consensus that Grafton was married to North Haverhill. He confirmed they could revisit the issue with Grafton as they received a "huge number on their assessment", also. Mr. Franklin commented that he visited the State prison in Berlin and spoke of the inmate population, the phases, and the expandability to include another 500 prisoners. He said the cost to build the facility was 25 million and "It's strange we received a proposal for a greater amount, for less inmates". Commissioner Nelson noted the committee discussed programming space, which was developed into needs assessment facility costs for Sullivan County - we want inmates going back in to community using local programming, which is a problem when regionalizing. Commissioner Barrette noted if you were looking to housing people you could throw them into the space proposed, but the State and Federal government are not working under the assumption of programming. Commissioner Jarvis indicated the committee is passionate inmates don't return, that they receive specific programs to become participating good citizens, and this comes at a high cost. Mr. Franklin indicated he toured the Berlin prison woodshop where 18 inmates work on beautiful workmanship and learning something they can depend on. He also pointed out there is an infirmary with 7-8 beds, a dentist office, a GED program and the state prison is not just a warehouse.

Representative Converse expressed concerns regarding the Judkin's property; we've had several contracts, the last one excluded Unity from first refusal and raised the cost. Commissioner Jarvis confirmed they would be using the last contract and placing the 1<sup>st</sup> ownership back to Unity with 2<sup>nd</sup> to Society of NH for Protection of Forests.

Rep. Franklin asked if he had to continue to request data/information through the County Manager, rather than the office staff. Commissioner Barrette reminded Mr. Franklin the Board clarified their information policy; the policy is clear and his requests must be in writing; responses will be made within three days. Mr. Franklin noted he had not received the Genesis contract information he requested and the auditors do not have the information. Commissioner Nelson pointed out all the data he requested was in the folder they presented to him. Representative Franklin refuted this comment. He asked

"how much has been paid to Genesis under the contract?". Mr. Gil de Rubio confirmed the data regarding payments made to Genesis was provided to both the Board and Mr. Franklin and spoke briefly of monthly bills Genesis submitted to the County, which they disputed. Representative Franklin requested copies of all bills.

**4:59 Commissioner Barrette moved to adjourn the meeting. Commissioner Nelson seconded the motion. There was no further discussion. A voice vote was taken. The motion carried, unanimously.**

*Respectfully submitted,*



Jeffrey Barrette, Clerk  
Board of Commissioners

JB/s.j-c.

Date signed: 12/18/07