

**Board of Selectmen  
February 10, 2010**

**Present:** Mark P. Duffy, Chairperson; Kenneth S. Paul; John J. Blackwood; Robin L. Frost, Town Administrator; and Toni Bodah, Secretary

The posted meeting was called to order by Mr. Duffy at 6:33 p.m. **Mr. Blackwood moved to enter Non Public Session under RSA 91-A:3, II (c). Mr. Duffy seconded the motion. Roll call vote: Mr. Paul – ‘aye’; Mr. Blackwood – ‘aye’; Mr. Duffy – ‘aye’. The motion passed unanimously, and the Board entered Non Public Session.**

The Board returned to public session at 7 p.m. Those present at this time included: Matt Murawski and Dan Moss of Dubois & King; Relf Fogg; John Ciardi; Asha Kenney; Daymond Steer, *Carroll County Independent*; Steve Brown; Cynthia Wyatt; John Waitner; Pam Judge; Dave Mankus; Dick & Margaret Wessell; Fred Gray; John Hildreth; Ron Kinville; Cathy Kinville; Carroll Shea; Mike Shea; Jerry & Kim O’Connor; Kasandra Hoffman; Nick Scala; and Ken & Lisa Dudley.

Mr. Duffy led all in the Pledge of Allegiance.

**1. Public Hearing** – Mr. Duffy opened the public hearing, stating the purpose being for Dubois & King, engineers for the Siemon Company, to share their plans for the Siemon Dam in Union Village. Mr. Murawski provided some history regarding the dam and displayed various draft drawings and pictures. The State has now classified the bridge as being a “high hazard” and has directed the owners to either upgrade the dam or remove it. The owners have considered both options and have decided to remove the dam. Mr. Murawski advised Mr. Duffy that there would be no impact upstream other than to create a free-flowing river.

The high-hazard classification requires a \$4000 yearly fee to the State. According to Mr. Murawski, the intent is to remove enough of the structure so that it is no longer considered a dam. The engineers must also consider the cultural and historical resource factor and hope to leave a portion of the structure in place. Preliminary plans have been developed for which the owners are seeking public input.

Carroll Shea stated that he does not believe there is enough water behind the dam to create a problem downstream, in the event the dam failed. Mr. Murawski noted that the State does not wish to underestimate the risk factor. Mr. O’Connor noted that there is a dry hydrant located in the parking lot adjacent to the dam and questioned whether its removal would create a fire hazard to the community. Mr. Murawski indicated that they would need to speak with the Fire Chief to discuss an alternative. Mr. O’Connor noted this would likely be a concern to the residents of Union Village.

Mr. Murawski advised that the process is to first have a public hearing to obtain input, then to obtain a State wetlands permit, which would include consultation with the Division of Cultural and Historical Resources. Prior to removal, the history of the dam would need to be thoroughly documented.

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Mr. Murawski stated that a portion of the historic dam would still be visible from the road, adding that only enough of the structure needs to be removed in order that it no longer can be considered a dam. It is anticipated that the channel upstream would re-establish itself.

Mr. Murawski advised that the project could not commence until late spring or early summer in order to accommodate the fish currently hibernating in the stream. The project would begin with the draw-down, with actual removal of the structure to occur in late summer. Mr. Hildreth questioned whether it would be possible to remove only the hydro part and leave the rest. Mr. Murawski stated that since water would still back up during a high-flow event, the State would still consider the structure to be a dam.

Ms. Judge questioned what other alternatives were considered. Mr. Murawski advised that the owners considered repair of the dam, which would require an update of the emergency action plan, an updated breach analysis, minor maintenance, 1' of free board, and repair of all leaks. He noted that project would be significant and expensive. Although estimates have been developed, no final cost for such a project has been determined. On-going maintenance in order to meet State standards would also need to be considered.

Ms. Judge agreed that there is an associated cost with ownership of historic sites. She noted that the dam is registered with the National Parks and added it would be a shame to lose it. Ms. Judge stated that the Heritage Commission did not receive notification of this public hearing and would certainly have concerns about what is going to be done. Mr. Waitner stated that no notification was made to other parties until last Friday, with the result being that not all interested parties could attend. He stressed that he had requested (at a previous meeting about the dam) to be kept in the loop in order to avoid surprises. Mr. Murawski noted that several meetings have been held, adding his expectation that representatives of the Town would have been so notified. Mr. Murawski added that the Town was approached about assuming ownership of the dam.

Ms. Judge questioned whether all avenues have been fully explored in the effort to avoid removal. Ms. Frost advised that the Board of Selectmen did receive correspondence questioning whether the Town was interested in ownership of the dam. At that time the dam was not classified as "high hazard"; however, that designation was expected to occur. The Board decided it did not wish to assume that liability. Ms. Judge believes the Conservation Commission should have been consulted. Mr. Mankus stated that all working together might have been able to discover an avenue of saving the dam. He added that the dam seems to have held up just fine during the 3 100-year floods the Town has experienced in the past several years. Mr. Mankus questioned whether something has happened, noting he has not heard of any problems affecting the structural integrity. Mr. Murawski stated that the dam is in relatively good shape due to its original construction

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Discussion followed regarding the floods having occurred in recent years and where the water actually comes from. Ms. Judge referred to the State's requirement that the dam be able to pass the 2 ½ times a 100-year flood test and questioned whether the classification could be changed if local entities work together to address that issue. Mr. Murawski indicated that a detailed technical analysis of what happens when the dam breaches would still be required, which would not be an inexpensive process. He noted his expectation that the results of the analysis would likely indicate something less than a classification of high hazard. He stressed the difficult standards set by the State and the significant expense that would be incurred in order to prove the case to the State.

Mr. Steer questioned whether the dam serves any actual purpose. Mr. Murawski advised that, via the dry hydrant, the dam provides fire suppression. Ms. Hoffman referred to the many turtles in that area and asked whether they would be moved. Mr. Murawski assumes that the turtles would move themselves.

Mr. Shea questioned whether any consideration had been given to the wells supported by this body of water. Mr. Murawski stated that it had been considered, but not in great detail. Mr. Hildreth expected that those properties on the right bank would need to install new wells. Mr. Murawski noted that the dam owners are not required to provide water for private wells. Mr. Hildreth questioned whether there is a high cost to the owner for liability insurance. Mr. Murawski did not have that information, although he does know that while that is the case in other situations, it is not usually a factor for municipalities.

Mr. Mankus questioned where the actual decision is made regarding removal of the dam. Mr. Murawski advised the permit must be approved by the Wetlands Bureau, Army Corps of Engineers, Conservation Commission and Department of Historical Preservation. Ms. Judge questioned the thoughts of the Board of Selectmen when offered ownership of the dam. Mr. Duffy agreed that the structure appears sound; however, it would likely be a maintenance nightmare, an added liability, with on going repair costs. He stressed that the State would mandate compliance with all their requirements. Mr. Duffy stated his belief that acceptance of the dam should be done only by a Town vote.

Ms. Kenney asked why the residents in the area of the dam did not receive notification. Ms. Frost advised that the Town advertised the public hearing, on behalf of Dubois & King, in both the *Carroll County Independent* and *Fosters Daily Democrat*. She also noted that the Board did investigate the possibility of ownership; however, the State will direct the owner of the dam as to its requirements – regardless of who owns it.

Mr. Steer referred again to the dry hydrant. Mr. Duffy indicated the Fire Chief would need to be consulted. Hopefully, the hydrant could be relocated. Mr. Blackwood referred to a possible engineering error several years ago when water from the other river crossed the street in Union.

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Ms. Judge noted that owning the dam is a big expense; however, the dam is a significant part of our history, and every option needs to be explored before the dam is removed. She stressed again that the Heritage Commission has heard nothing since the on-site meeting in February 2009. She added that Wakefield is a CLG community, and funds may be available for such a project. Mr. Murawski encouraged everyone to explore options and contact Dubois & King or the owner of the dam for further discussion.

Mr. Mankus stressed that currently the mill pond is beautiful; however, if the dam is removed, the area would resemble a rock pile. Mr. Murawski stressed that they are trying to balance all concerns. Mr. Fogg questioned whether it would make sense for the Town to utilize the power that could be generated. Ms. Wyatt stated that it was not cost effective to harness the power generated. Mr. Kinville stated that in 1983 the State ordered the Siemon Company to make repairs to the dam and address the turbine. At that time a generator was installed; however it did not generate enough power. He added that the dam was not considered to be a high hazard at that time. Mr. Murawski noted that the standards changed in 2005.

Mr. Mankus is more concerned with the dam near the Irving Station, which holds back all of Union Meadows. Mr. Moss advised that dam, owned by the State, has a lower classification. Mr. Hildreth questioned whether the owner would be interested in selling the dam. He will be provided with contact information. Ms. Kenney questioned how the water flow would be affected if the dam were to be removed. Mr. Murawski stated that upstream would become more narrow. Water would continue to come from Union Meadows, and the flow might actually be a little stronger.

Ms. Hoffman questioned how deep the water would be and how much ground would show. Mr. Murawski estimated about 12-15 feet of ground would be exposed, to be graded and not be steep. Mr. Mankus asked how much removal of the dam would cost. Mr. Murawski estimated that engineering and permitting would cost around \$25,000, with the rest of the work costing in the area of \$40,000.

Mr. Shea stated that the dam below this one was previously removed. Therefore, if this dam should fail, it has a lot of area for disbursement of water, eventually going into a much larger pond below. Mr. Shea believes this should be taken into consideration. Mr. Murawski agreed that is a good argument for keeping the dam in place; however, the updated breach analysis would still be required.

Mr. Duffy expressed concern with erosion in the event of heavy rains if the dam is not in place. However, given the significant cost to repair and maintain a dam that serves no purpose to the owner, he understands their desire to remove the dam. Mr. Duffy added that it does not always make sense to preserve every historical structure. Ms. Kenney is concerned with the fire safety issue for the entire village. Mr. Duffy stressed that the dry hydrant could likely be relocated.

Ms. Hoffman questioned what the State would do if the dam owner simply did not have the necessary funds to address this issue. Mr. Murawski indicated that if the State considered that the dam posed an imminent public threat, it might remove the dam, then bill the owner without expectation of ever being reimbursed. If the owner does not address the State mandates, they will be subject to daily fines.

Mr. Duffy questioned whether the dam had been up for sale. Ms. Wyatt stated that the entire property had been up for sale; however, the dam proved to be an impediment to any such sale. Mr. Shea questioned whether the liability to the owner would be lessened if the classification were reduced. Mr. Murawski did not have that information.

Discussion followed regarding the gates. Mr. Murawski would not expect much change if the gates were open. Ms. Kenney asked about water flow rights. Mr. Murawski does not believe any such rights are held by anyone other than, possibly, the owner. Mr. Mankus made reference to open gates allowing for better flow. Mr. Murawski stated that it would still be a dam that needs to be maintained. Mr. Mankus believes the State should have a venue for making exceptions to the rule concerning 1' of free board. Mr. Murawski does not disagree; however, that would require good technical backup. If successful, the dam would still require maintenance.

Ms. Hoffman asked for a deadline. Mr. Murawski indicated that the State expects to see steady on-going progress towards either rehabilitation or removal. Therefore, they expect to see drawdown in late spring/early summer. Mr. Murawski expects to submit a wetlands application within the next month. Mr. Gray referred to a situation several years ago when Route 16 was shut down and the railroad tracks actually acted as a dam.

Mr. Duffy stressed that this is a privately owned dam. The timeline is for this spring; therefore anybody who wants to do more research or to coordinate with the owner, should do so right away. Ms. Judge would encourage the owner to have a meeting with the Heritage Commission to explore other avenues. Mr. Duffy closed the public hearing at 8:13 p.m.

## **2. Appointments**

**a) Relf Fogg, WCATV Station Coordinator** – Mr. Duffy noted that the station is getting much more attention, in addition an election is coming up. He assumes that the station will be receiving requests for political videos, and he stressed that we must make sure to conform to the policies/procedures. Mr. Duffy read from Section 2:10.4 of the procedures regarding election videos. He added that such videos should not be made in Town Hall. Mr. Fogg expects everyone to have equal time as outlined in the referenced section. Mr. Duffy suggested posting a deadline to submit videos and establishing a common airing time. Mr. Fogg thought that would be a good approach. He noted that some CAB volunteers are themselves canvassing and added that nobody should be denied such an opportunity.

Mr. Duffy stressed that all must be treated equally, adding that this is a great avenue to get the message out. Shots taken outside of the building would be fine with Mr. Duffy. Mr. Fogg thought Town Hall would be the most appropriate location. Ms. Frost referred to the calendar of use for the building, adding that security is an issue. She stated that one thing that can be controlled is use of the Opera House and Conference room. Mr. Fogg had anticipated contacting the candidates and establishing a schedule at Town Hall at their convenience, believing this would keep the backdrop uniform. Mr. Duffy and Mr. Blackwood are not in favor of filming inside of Town Hall. Mr. Paul does not care, but believes scheduling could be an issue.

Mr. Duffy referred to the draft agreement received from Mike Edgecombe of Time Warner. Mr. Fogg noted it is based on their agreement with the Town of Middleton and does not include several items covered in the draft prepared by WCAB. The attorney has not yet reviewed this draft, as Mr. Fogg wanted to be sure the funds were available for this use. Mr. Fogg questioned whether such review should wait to see if Article 19 passes in March. Ms. Frost stated that if Article 19 does not pass, but franchise fees are approved, the fees would go into the General Fund. Mr. Fogg is concerned that the fees may be perceived as a double tax. Mr. Duffy is only in favor of franchise fees if they are specifically used for cable station operation. Ms. Frost noted that we likely will not get any franchise fees until 2011. Mr. Blackwood asked about the cost of advertising on the station. Mr. Fogg advised that advertisements are not permissible; however, businesses may sponsor individual productions.

**3. Unscheduled Matters/Public Comment #1** – None forthcoming.

**4. Unfinished Business**

**a) Pending Projects Spreadsheet**

- Canal Road Bridge: No information yet from DOT re: the bridge aid estimate.
- Town Hall Renovations: Meridian has acknowledged the May 1 deadline.
- Transfer Station Design: The new compactor is on line. The old compactor is currently shut down. Barriers have been erected around it; however, some continue to use it.
- WWTF Gate: The gate is fixed! Ms. Frost is seeking estimates for security cameras.

**a) Draft Email Policy** – Mr. Duffy likes what he has read. Ms. Frost advised it is based partially on policies from the Towns of Peterborough and Bow. Discussion followed regarding email retention and the role of the system administrator. The Board members will review in more detail for discussion at the next meeting.

**5. New Business**

**a) Boston Post Cane** – After having solicited for information as to Wakefield oldest resident, it appears as though the honor goes to Alice Sturgis, whose birthday is October 21, 1911! Arrangements will be made to make a presentation to Ms. Sturgis at her home.

**6. Correspondence**

**a) Henry Blanton** – Mr. Blanton appreciates all the recognition he has received for his years of service to the Town of Wakefield.

**7. Unscheduled Matters/Public Comment #2**

--Mr. Wessell recently attended an overview of the Wakefield Fire Department, which included a tour of the station. Mr. Wessell referred to the 2<sup>nd</sup> floor roof system and recommends at the least that the Town's insurance carrier be contacted regarding the payback for a sprinkler system before that area is completed.

**8. Administrative Matters**

**a) Liaison Reports** – Mr. Paul: WPI received the Selectmen's Letter of Appreciation, which gave them an energy boost. They are still working on the energy efficiency grant, which is broken into several parts. The grant application must be submitted by February 12. WPI is also seeking 4 board members. ZBA did not meet this month, and Planning Board meets tomorrow. Pride Day has been scheduled for May 15.

Mr. Blackwood: Planning Board approved a boundary line adjustment involving 3 lots in Union.

Mr. Duffy: He will share the schedule for Chamber meetings in the event any other member of this Board is interested in attending those meetings. Candidates' night is scheduled for March 1. Ms. Frost will set up the sound system for that event.

**b) Administrator's Update**

--Teresa Williams has earned the designation of Certified Municipal Clerk. Congrats to Teresa!

--The Food Pantry would like to make a slight change to the kitchen renovations. They would like to eliminate the small bathroom (near the kitchen counter) and are working with Wayne Robinson on this project.

--Paperwork from the Census requires the signature of the highest elected official regarding the boundaries of the government unit. Ms. Frost has verified the information provided. **Mr.**

**Blackwood moved to authorize Mark Duffy to execute the Census information as presented. Mr. Paul seconded the motion, which passed 3-0.**

--Supreme Court has upheld a previous decision of the lower courts in the Town's favor with respect to the McMullin case.

--The Annual Landfill Closure Report and the Groundwater Summary Report are available for review.

--The Board must consider how to address health insurance for elected officials when those individuals are no longer elected officials. Either the individuals can be offered COBRA, at their own cost, for 18 months; or the individuals can be given retirement status. **Mr. Duffy moved to follow the COBRA schedule for elected officials leaving the Town's service. Mr. Paul seconded the motion, which passed 2-0-1.**

**c) Other Business**

--Mr. Duffy noted that the Board has had to deal with a number of tax-deeded properties.

**Mr. Duffy moved that this Board, prior to acceptance of any Tax Collector's Deeds, cause a letter to be sent to each property owner, listing the estimated cost of redemption, including the penalty figure. Mr. Blackwood seconded the motion, which passed 3-0.**

**--Mr. Duffy moved to execute a Selectmen's Deed for redeemed property known as Map 94, Lot 49. Mr. Paul seconded the motion, which passed 3-0.**

**d) Minutes – Mr. Paul moved to approve the minutes of January 27, 2010, as presented. Mr. Blackwood seconded the motion, which passed 2-0-1.**

**e) Non Public Session – Mr. Duffy moved to enter Non Public Session under RSA 91-A:3, II (a). Mr. Blackwood seconded the motion. Roll call vote: Mr. Paul – 'aye'; Mr. Blackwood – 'aye'; Mr. Duffy – 'aye'. The motion passed unanimously, and the Board entered Non Public Session.**

The Board returned to public session at 9:20 p.m., at which time the meeting adjourned.

Respectfully submitted,  
Toni Bodah, Secretary

Approval of Minutes:

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Mark P. Duffy, Chairperson

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Kenneth S. Paul

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John J. Blackwood