

Planner pleads innocent to fraud

BY JAMES A. KIMBLE
STAFF WRITER

CONCORD — Salem Planning Board member Robert Mayer, accused of approving about \$4 million in bogus home loans and repair projects while working for a federal veteran's home loan program, pleaded innocent in federal court yesterday.

Mayer, 56, remains free on his own recognizance, after being arraigned in U.S. District Court on charges of conspiracy to defraud the government, accepting bribes as a public official and making false statements.

Mayer, who worked for the Department of Veteran's Affairs until February 2002, was part of a scheme that included overcharging the Veteran's Affairs Office for properties that were worked on, or charging for work that was never performed, the indictments allege.

Mayer worked for the veteran's affairs office in Manchester between December 1991 and around February 2002, and prosecutors believe he began manipulating bids to contractors in 1996, according to court documents.

While working for the department, prosecutors say, Mayer made payments on behalf of the VA office to a Derry contractor, John Burke, worth about \$3.1 million between January 1996 and February 2002.

During that same period, four unindicted co-conspirators received about \$1.1 million from the VA because of government contracts awarded by Mayer, according to court records, which said: "Mayer would directly and indirectly demand, accept and receive items of value from Burke and the co-conspirators, as a condition of using his authority as a specialist to insure that dishonest and misleading invoices that were submitted to the VA by Burke and the co-conspirators were paid."

Mayer and Burke would conceal "their dishonest manipulation of the VA's contract award and payment procedures by providing false, fraudulent and misleading information to property managers, the VA and federal law enforcement investigators," court documents said.

Assistant U.S. Attorney Robert M. Kinsella said Mayer is scheduled to go to trial in early June. If convicted, Mayer could face up to 15 years in prison and \$250,000 in fines.

4/1/3/04

Three-Way stop to slow traffic on Cluff Road

By JASON B. GROSKY
STAFF WRITER

SALEM, N.H. — A homeowner on Cluff Road for 35 years, Carol A. Braddock recalls a time when the road's dangerous S-curve ate up at least one vehicle per week, with fast-moving drivers ending up wrecked in the woods.

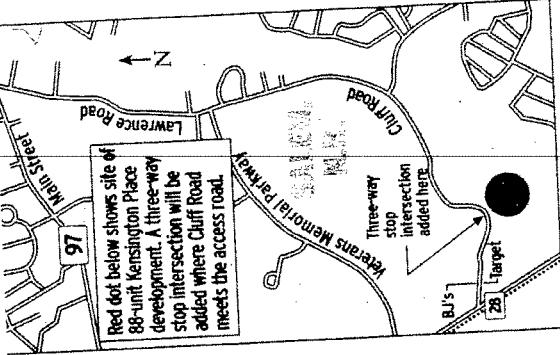
Speeding and the number of accidents decreased over the years as

“Our goal with the three-way stop is to make that intersection as safe as possible for the daily traffic on Cluff Road,” said project manager William J. Buckley of Boston North under construction.

Traveling will become slower along Cluff Road — a major cut-through between Route 97 (Main Street) and Route 28 — as officials create a three-way stop where the road intersects the Kensington Place senior housing project now under construction.

Methuen regularly follow Lawrence Road to Cluff Road to reach the Route 28 retail strip. Cluff Road begins at the three-way intersection with Lawrence Road and continues past Target and BJ's Wholesale Club to Route 28.

Please see SPEEDING, Page 2



Properties, which is building the development. “There’s a fairly sharp bend in that road right now. By adding our project to that bend, we were concerned that without slowing traffic, we might be creating a hazardous situation there.”

Motorists heading into Salem along Route 97 from Haverhill and

■ *Continued from Page 1*

gins at the three-way intersection with Lawrence Road and continues past Target and BJ's Wholesale Club to Route 28.

A traffic study shows about 870 vehicles per hour travel along Cluff Road during peak times on a Saturday afternoon — equal to one car entering the road every four seconds.

Construction of the three-way stop will start by month’s end, and likely will take two weeks to complete, Buckley said. In addition to the stop signs, motorists entering the intersection will also face a flashing red light.

Part of Cluff Road will be cut back to straighten part of the bend and create a T-shaped intersection for the three-way stop.

“We’re not going to be able to

quite get a 90-degree turn there, but it will significantly improve the current situation,” Buckley said. “As people get more used to it, it will slow traffic down throughout the entire area.”

Formerly a rural back road, Cluff Road became busier as development continued along Route 28. Accidents became common, especially along a curvy stretch described by police dispatchers as “Cluff by the goose farm,” so-called because there was a goose farm there for many years.

With the 88-unit Kensington Place project, along with 150-plus units to be built across the street in the woods between Cluff Road and Veterans Memorial Parkway, traffic in the area is about to get worse, town Planning Director Ross A. Moldoff said.

“This doesn’t mean the stop signs are going to work, but hopefully it will,” he said.

Rather than putting in another three-way stop, neighbor Jessica Schablein said she would rather see a stoplight where the driveways of BJ's and Target intersect with Cluff Road.

“It’s horrible up there,” said Schablein, a resident of 5 Cluff Road.

Braddock, who lives in the home at 35 Cluff Road in which her late husband was born, said she initially opposed the three-way stop but now supports it.

She hopes the three-way stops at Lawrence Road and the Kensington Place development frustrate motorists into avoiding Cluff Road.

“Maybe they will stop using this as a throughway and instead use Veterans Parkway,” she said. “People will be aggravated to have another three-way stop, and you know how people are.”

■ *Continued from Page 1*

His indictment was a shock to fellow Planning Board members, one of whom said Mayer should resign from the board.

"It's innocent until proven guilty in a court of law, but in a court of public opinion, we have a different standard," member Adam C. Webster said.

Developers stand to make many dollars of decisions made by the Planning Board, and while Mayer has not been convicted, his presence on the board would lead to "perceptions of impropriety," Webster said.

"Bob's been a good man who cares a lot about Salem," he said. "We certainly don't agree on many issues, but I find him to be a fine man. I just don't want people to see the Planning Board and think there's any funny business going on."

Charged with Mayer is John Burke, 34, owner of Burke Renovations in Derry. If convicted of the most serious offenses — the bribery counts — they

face up to 15 years in prison and a maximum fine of \$250,000.

Mayer formerly worked in the VA's regional loan office in Manchester. He is charged with conspiracy to defraud the agency, accepting bribes and making false statements. Burke was charged with conspiracy to defraud the government and two counts of paying bribes to a public official.

The contracts Mayer is accused of helping facilitate were for work on properties acquired by the VA through its guaranteed loan program. Mayer allegedly "dishonest action" for a member under indictment, but he said he will inquire

ployee of the VA" to ensure the contracts were awarded to Burke and the four other people, according to officials, who say the VA also paid Burke and the co-conspirators after they allegedly filed "dishonest and misleading invoices."

The investigation is being headed by the state Inspector General's office of New York. "What happens with Mayer's Planning Board seat remains to be seen," Board Chairman James Keller said nothing in the Planning Board bylaws requires "a special action" for a member under indictment, but he said he will inquire

further. "My feelings are innocent until proven guilty," he said. "Until the matter is resolved either way, unless (stated) otherwise, things continue as they have been."

Talking about Mayer, Keller said: "From everything I've seen, he's been positive, thoughtful and intelligent. Every action I've seen of him has been aboveboard."

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Planning Board member indicted

4/9/04

► Salem



"When your attorney tells you not to say a word, you keep your mouth shut."

Planning Board member Robert Mayer,
Indicted on bribery charges

ing improvements to his home at 4 Hidden Drive and to one of his relative's homes in Massachusetts, according to the indictment.

At his doorstep this morning, Mayer acknowledged the indictments but declined comment.

"When your attorney tells you not to say a word, you keep your mouth shut," said Mayer, 56, who's served on several town boards in Salem.

Please see **MAYER** Page 4

SALEM — New York authorities are charging Planning Board member Robert Mayer with taking bribes in exchange for funneling \$4 million worth of government contracts to a Derry home renovator and four unindicted co-conspirators.

The alleged scam was done through

ments unsealed yesterday, the conspirators repaid Mayer by purchasing materials from retail stores and mak-

Mayer's former employment with the Department of Veterans Affairs. According to federal grand jury indict-

ments

BY JASON B. GROSZY
AND JAMES A. KIMBLE
STAFF WRITERS

contract protections

► SALEM, N.H.
Continued from Page 1

Leighninger said she has not decided if she will contest the board's decision. She said she has been busy working with other town department heads since last week to resolve issues relating to flooding in north Salem and the Route 28 area caused by last week's rain, which dropped 6 inches over 36 hours.

"It's my opinion that each of the contracts are valid," Leighninger said. "I'm still employed as town manager, and I would like to continue as town manager, and I would like to fulfill my three-year contract. I also would like to sign another three-year contract."

The severance package in Leighninger's contract has been a lightning rod of dispute since the provisions were approved last month by a lame-duck majority on the board. Then-Chairman James Holland called a special meeting of the board to approve the changes the day after he lost his seat in the town election to challenger Ronald Belanger, who was sworn into office three days after the election.

Holland, Micklon, and Selectman Philip Smith approved the changes, while McBride abstained. The other selectman, Richard Gregory, abstained because he did not believe the meeting was legal. A group of citizens started a petition drive, dubbed Operation Take Back, requesting that Micklon and Smith resign from the board because of their support of the last-minute revisions.

Holland still stands behind the contract changes, which he said were legal according to an opinion the board received at the time from the Concord law firm Cleveland, Waters & Bass. He said the changes were necessary because rumors were swirling that a new majority consisting of McBride, Gregory, and Belanger, who have been critical of Leighninger, would fire her.

"It's frustrating," said Holland, who accused the new board of "shopping around" for a law firm that would question the legality of the changes. The new board used



GLOBE STAFF FILE PHOTO/JOANNE RATHE

Marcia Leighninger said she wants to continue as Salem's town manager, despite the current contract dispute.

the Manchester law firm Sheehan, Phinney, Bass & Green. "I'm 6-foot-3, but if you look hard enough I bet you could hire an attorney who would argue in court I'm 5-foot-2."

Holland said it was difficult for him to elaborate any further on the board's decision because minutes of the secret meeting were sealed, and little information has been released surrounding the reasons for their decision.

Leighninger, who is the town's fifth manager since 1999, has been at the center of controversy even before her hiring last year. In considering her for the job, the Board of Selectmen voted, 3-to-2, not to review her personnel file from her days as the town's police prosecutor. The board later voted, 3-to-2, to offer her the job. Since then, she fired the town's human resource director, who raised questions about the process that led to her hiring. More recently, Leighninger, a Salem resident, supported Holland in his reelection bid.

Mary Samperi Giordano, spokeswoman for the Operation Take Back petition drive, said she was glad the new board has decided to follow Leighninger's original contract. "The old board was protecting one person at the expense of the town," she said.

James Vaznis can be reached at jvaznis@globe.com.

SALEM, N.H.

4/8/04 B. Globe

Selectmen reverse contract changes

By James Vaznis
GLOBE STAFF

The Salem Board of Selectmen has decided it will adhere to the original contract the town penned with Town Manager Marcia Leighninger and will ignore severance packages added to the contract last month by a lame-duck majority on the board.

That means it will take only a simple majority, rather than at least four out of five selectmen, to fire Leighninger. Should such an action occur without cause, Leighninger would receive six months of her salary, rather than the balance of her contract or a minimum of six months, whichever amount is greater.

The old board was protecting one person at the expense of the town.'

MARY SAMPERI
GIORDANO
Operation Take Back
spokeswoman

board member who could be reached, said McBride requested that he be the only board member to answer questions about the contract.

SALEM, N.H., Page 7

And if Leighninger quits before her contract expires on June 22, 2006, she will no longer be eligible for severance pay; in the amended contract she would have received six months salary.

The board notified Leighninger about its decision regarding the contract by letter after it met in a closed session last week. Board Chairman Everett McBride Jr. could not be reached for comment. Selectman Stephanie Micklon, the only

rumors were swirling that a new majority consisting of McBride, Gregory, and Belanger, who have been critical of Leighninger, would fire her.

"It's frustrating," said Holland, who accused the new board of "shopping around" for a law firm that would question the legality of the changes. The new board used

Some Salem workers see 30 percent hikes

BY JAMES A. KIMBLE
STAFF WRITER

SALEM — Human Resources Director Brooke Holton has received a 19 percent raise in salary since coming on the job in August, along with \$3,210 in academic reimbursements paid for by the town.

Salem has paid a total of \$52,581 in academic reimbursements to town employees since 2001, while a sampling of pay records show employees have been getting raises of 20 to 30 percent in salary during that same period.

Town Manager Marcia Leighninger released the information in response to a Right To Know request filed by The Eagle-Tribune March 31.

The newspaper is still awaiting a copy of Holton's resume, a listing of course work Holton has taken and a breakdown of any related expenses paid to her, including costs for mileage and textbooks.

Holton, who was hired by Leighninger in August, was hired at \$50,273 and receive a \$7,798 raise in February followed by a \$1,527 raise last Thursday.

Instead of releasing the information to the newspaper, Leighninger handed out copies of the salary and reimbursement information to selectmen Monday night and defended the raise given to her personnel

Please see RAISES, Page

4/7/04

4 Wednesday, April 7, 2004 THE EAGLE-TRIBUNE

RAISES: Costs reimbursed

■ *Continued from Page 1*

director as one that follows the norm in Salem.

Leighninger said contracts for police, fire and the Salem Administrative and Technical Employees, the union for Salem's clerical workers, all require the town to reimburse employees for college courses so long as they meet the requirements of their contract. That usually means a worker has to get a grade of a C or better, Leighninger said. The pay raises come in two ways, either through cost-of-living increases or "step" raises called for in a particular contract.

Seven workers received reimbursements in 2001, totaling \$10,124. That number doubled in 2003 when a dozen employees received a total of \$21,260.

Melanie Murray, who works for the town finance department, received the highest in academic reimbursements, \$17,126. Murray, who is paid \$64,001, has seen a salary increase of 38 percent since coming on the job in April 2001, when she started with a \$46,500 salary.

Even though she has only been on the job since last summer, Holton came in fourth highest in recovering academic reimbursements among 17 employees who collected such funds in the past

TOP FIVE

These are the totals of reimbursement for course work/training since 2001:

1. **Melanie Murray**, finance department, \$17,126
2. **Dennis Covey**, fire inspector, \$4,498
3. **Mike Wallace**, deputy fire chief, \$4,413
4. **Brooke Holton**, human resources director, \$3,210
5. **Patrick Swanson, Mary Burnett**, firefighters, (tie), \$3,000

three years.

Fire Inspector Dennis Covey came in second with reimbursements totaling \$4,498, followed by Deputy Fire Chief Michael Wallace with \$4,413. Firefighters Patrick Swanson and Mary Burnett tied for fifth highest reimbursements, getting \$3,000 each.

In addition, Recreation Director Julie Kaimal saw a 31 percent increase in salary since 2001. In 2001, Kaimal was paid \$45,519, and now makes \$59,598. Senior Center Director Patti Drelick received a 23 percent increase in pay, totaling \$49,730. Engineering Technician Joseph Chamberlain got a 20 percent increase in pay, totaling \$61,691.

4/7/04

Salem can't keep residents in the dark

It doesn't matter who holds the seats on the Board of Selectmen, secrecy continues to poison the government of Salem, N.H.

It has to stop. And it will take the citizens of Salem to demand that it do so.

Residents of Salem should be fed up with this nonsense and the waste of their tax dollars it takes to perpetuate it. Two different Boards of Selectmen have consulted with lawyers about the legality of hiding discussions and correspondence with Town Manager Marcia Leighninger from public view. Lawyers do not come cheaply.

This is information about the qualifications and performance of a town manager and those she hires. Their salaries are paid directly by the people of Salem.

This is information about secret meetings by the previous board to make it more difficult and costly to remove Leighninger from her post. And this is information about the decision by the current board to declare that new contract nullified.

Salem residents should pack public meetings and demand to know what's going on. How do those who lead them think they can get away with such nonsense.

Everett P. McBride, the new selectmen chairman, announced on Saturday that the board decided to scrap the amended contract and hold Leighninger to her original deal. The decision was based on a legal opinion from a Manchester law firm hired by selectmen to review the legality of the new contract and the process that led to it.

The minutes from selectmen's meeting with the firm's lawyers last week have been sealed as has the letter McBride delivered to Leighninger on Friday detailing the decision.

The Eagle-Tribune has already asked for the minutes and other documents under the Right-to-Know Law.

McBride said those minutes will never be disclosed and he and the other selectmen will never discuss them in public. He claims they are protected under attorney-client confidentiality.

It is ludicrous for McBride to claim any lawyer-client privilege allows these documents to be kept from the public. The "client" in this case is the town of Salem. The Board of Selectmen acts not on its own as an agent of the people of Salem. It cannot keep public information from the public.

This foolishness does not end with the Board of Selectmen. It extends to the town manager herself.

The Eagle-Tribune has had to file several written requests to Leighninger for information that ought to be readily available to anyone walking in the door of Town Hall. Specifically, we have requested information on the resume and qualifications of Brooke Holton, who Leighninger hired as personnel director — information on the qualifications of a public employee that taxpayers have a right to know.

Leighninger replied that she will respond to our request within 10 days, despite the fact that New Hampshire's Right-to-Know Law requires her to release at once information that is immediately available or within five days if it is not. Or she can deny access to the information in writing within five days if she has a legal reason to do so.

This fight isn't about our ability to publish a story in the newspaper. It's about your right as residents of Salem to know what decisions your elected leaders have made and why they made them. It's about your right to know the qualifications and pay of people hired with your money to run your community. It's about the basic functioning of a free and open society.

Right now, Salem isn't functioning as a free and open society. Salem is run by factions and cliques that make secret deals behind closed doors.

Haven't you had enough of it?

NEW HAMPSHIRE QUARTERLY

New facility will serve as corporate hdqrs.; design provided by Astoria Properties

Opechee Const. breaks ground on 61,000 s/f Advanced Polymers office/manufacturing facility

SALEM, NH - Advanced Polymers, Inc., Goodnow Real Estate Services, and Opechee Construction Corporation recently broke ground on Advanced Polymers Inc.'s new headquarters at 29 Northwestern Dr.

Opechee and its development affiliate Astoria Properties LLC will complete the design, permitting and construction of a 61,000 s/f, two-story office/manufacturing facility.

Those in attendance at the groundbreaking ceremony included New Hampshire Senator Judd Gregg, Advanced Polymers president Mark Saab



and treasurer Elisia Saab, real estate broker Christopher

Goodnow of Goodnow Real Estate Services, Salem Board of



ADVANCED POLYMERS, SALEM, NH.
© 2003 OPECHEE CONSTRUCTION CORPORATION

Selectman Chairman Michael Lyons, and Opechee Construction president Mark Woglom and vice president Tim Daigneault. Christopher Goodnow advised and represented Advanced Polymers in the land acquisition.

The new Advanced Polymers facility will be more than double the size of the current building and is expected to be completed in the fall of 2004. It will house the corporate headquarters and provide triple the space for the laboratories for product development, testing and manufacturing.

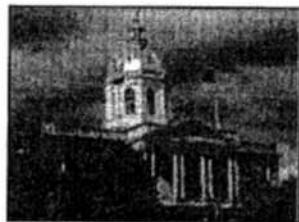
According to Mark Saab, the move to the new larger facility reflects the steady growth that Advanced Polymers has experienced over the fifteen years of operation. "We have physically outgrown our current building; due to increased business, the building no longer allows for a nice logical layout for workflow in the clean room manufacturing space," said Saab.

"I looked into expanding the current facility, but the cost and result was not ideal. Our real estate broker Christopher Goodnow advised looking for an office/R&D building and I happened upon an Opechee-built building that was on the market and loved it, but it did not have the correct ceiling height we needed."

Goodnow told Saab to look into new construction as well, and the search for land began. Goodnow introduced Saab to Opechee's president Mark Woglom. Opechee's development affiliate Astoria Properties LLC owned a suitable 4.2-acre site in Salem, which Opechee and Astoria presented as a build-to-suit project. "Mark Woglom came back with a fantastic presentation, provided a beautiful building rendering and a great price-it was the price I had in my head going into the presentation!"

Shown (from left) are: Michael Lyons, (seated), Christopher Goodnow; Senator Gregg, Elisia Saab (seated) Mark Saab, and Mark Woglom.

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■ *Continued from Page 13*

he wants to see the buildings razed and turned into more road space.

"As far as that piece of property is concerned, we should add a turning lane and grass the rest," said McBride. Selectman Stephanie Micklon said the town may want to consider the property for more green space.

Despite the desire to improve traffic conditions at the intersection, Planning Director Ross Moldoff said widening the road has proven to be a thorny issue for residents over the years.

Moldoff said town planners first identified it as a troublesome intersection in 1962, and controversy has followed it ever since. He recalled a 1994 Planning Board meeting where abutters along Main Street came out in force to protest the plan.

A plan to widen both Main Street and the intersection is on the state's 10-year Highway Improvement Plan, but keeps getting pushed back because of state budget cuts, according to Moldoff.

"It's entirely possible we'll be talking about the depot in another 40 years," Moldoff said. "It's a very costly improvement."

The state would pay for 80 percent of the expenses if the project ever came to fruition, but that would probably only come with expansion of the entire road, Moldoff said.

"The state doesn't want to spend money on a Band-Aid solution. We might be able to do something ourselves, but you really don't gain all that much improvement," Moldoff said.

Other factors, such as the redevelopment of Rockingham Park or the widening of Interstate 93, could put the issue back on a faster track, Moldoff said.

For now, Public Works Director Rodney Bartlett will have to find an environmental company willing to take the job of inspecting the buildings. Bartlett said the job is so small for companies that do such work it has been difficult to find a company willing to take on the projects. Selectmen directed Bartlett to renew the search for a company that will take the job.

► Salem

4/2/04

Depot turn lane still uncertain

BY JAMES A. KIMBLE
STAFF WRITER

SALEM — A year ago, Salem moved closer to answering what will become of the intersection of South Broadway and Main Street — known for its backups during rush hour — when the town bought a building that houses a tattoo parlor and dart supply store.

But a decision about whether drivers will get a turning lane or simply more grass along the area known as Salem Depot is still at a crossroads.

Selectmen agreed this week that the town will hire specialists to inspect 2 S. Broadway and 90 Main St. for asbestos in the walls and other possible contaminants often found in old

buildings in hopes of razing the structures sometime soon. But the board hasn't decided whether that will ultimately turn the area into more roadway.

Salem bought 2 S. Broadway last year for \$325,000, and already owned 90 Main St., known to many as the old Salem Observer building and a hardware store before that.

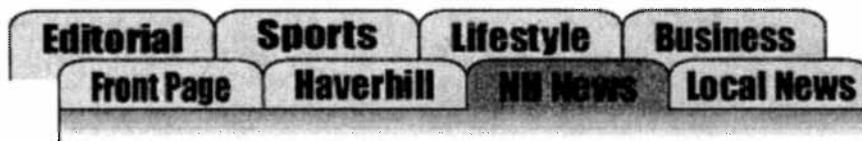
"I was on the board when the town bought the property (on South Broadway). The intent was that traffic heading east could make a continuous right," said Selectman Ronald Belanger.

Selectmen Chairman Everett McBride made it clear this week

Please see SALEM, Page 14

Moldoff, Ross

From: Ross Moldoff [r.moldoff@comcast.net]
Sent: Sunday, April 04, 2004 6:25 PM
To: Moldoff, Ross
Subject: article



Sunday, April 4, 2004

Board shreds manager's new pact

By Jason Grosky
Staff Writer

SALEM -- Selectmen are tearing up the new contract given to Town Manager Marcia L. Leighninger, deciding instead to follow the original contract that allows a majority of the board to fire her with or without cause and pays her no salary should she quit.

Selectmen Chairman Everett P. McBride Jr. said he notified Leighninger of the board's decision yesterday, 23 days after she signed the revised contract tendered hours before James E. Holland Jr. stepped off the board.

McBride said the board reached its decision Wednesday night when it met in secret with lawyers who reviewed the new contract, revised March 12 in a secret meeting held by the lame-duck Board of Selectmen. The board voted in public that night to send Leighninger a letter that would reflect what was discussed.

Asked last night whether she will challenge the board's decision, Leighninger said she has "valid contracts" and that "contract validity is for lawyers to decide."

"I'm still the town manager, and you know, I like being the town manager. ... I'm looking forward to fulfilling the three years of my contract and I'd like to sign on for another three years," she said before her cellular phone signal apparently faded out.

Leighninger signed the new contract March 13, hours before Ronald J. Belanger was sworn in to replace

Leighninger supporter Holland on the board. The new board two weeks ago asked a Manchester firm to review the legality of the contract and the circumstances surrounding its signing.

Selectman Richard R. Gregory | who challenged the legality of the revised contract and secret meeting | said he hopes the board's decision to follow Leighninger's original contract has two effects: restoring the trust of angry residents and stopping Salem from being the "laughingstock" of New Hampshire.

"I was outraged at what happened and I'm still not happy with what happened," Gregory said. "But at least now I know that good wins over evil."

Holland yesterday accused the board of "lawyer shopping" to get the legal opinion it wanted to reject the new contract. He said he was unaware of the board's decision, and that he wants to hear a full explanation backing up their decision to follow the original contract.

"They have an obligation to the taxpayers | before they write a check for six months, six years or whatever | to tell them why" the new contract is not valid, Holland said.

He said he was advised by other town counsel about how to handle revising Leighninger's contract. He said he could not recall the name of the firm he consulted with.

Leighninger was hired to her \$85,000-a-year post last summer, three months after Micklon defeated Belanger for the fifth selectman seat. Under the original three-year contract selectmen said they will follow, a majority of the board could terminate Leighninger with or without just cause. The contract also offered her no additional salary if she quit.

The revised contract of March 13, 2004, gave Leighninger better job protection. Under that contract, she could only be fired for cause, would get six months' pay if she quit, and would receive a full contract buyout (worth about \$198,000 now) if she was fired while "ready, willing and able to perform the duties of town manager."

A lawyer, Leighninger worked as the Salem Police Department's prosecutor for nearly seven years before quitting the job in December 2002. She became a

prosecutor for the state police, a job she left to return to Salem as its manager.

Her nine months as manager have not always been smooth. Gregory and to a lesser extent McBride have routinely questioned her decisions. She has been roundly criticized for her handling of three high-profile personnel moves.

The first | firing seven-year Human Resources Director Mary E. Donovan | came 30 days after Leighninger became town manager. Leighninger then hired ex-colleague Brooke E. Holton to the job, refusing to explain Holton's qualifications.

She told selectmen last month that she has statutory authority to choose a new police captain. Her announcement came after she refused the request of Police Chief Paul T. Donovan (not related to Mary Donovan) to promote Lt. William J. Ganley to the post.

County Attorney James R. Reams disagreed with Leighninger's view of state law, saying a police chief is the sole appointing authority, according to state statute and an earlier on-point court state superior court ruling.

Leighninger's contract revision prompted a group of residents | calling themselves Operation Take Back | to start a petition drive that sought the resignations of Micklon and Smith, neither of whom returned phone calls seeking their comment yesterday.

While Leighninger did not say last night whether she will challenge selectmen's decision to follow her initial contract, Gregory said he would not be surprised if she sues the board in hopes of enforcing the March 2004 revised contract.

"Nothing about the woman surprises me," he said. "I never, ever in my life would have dreamed that the 'Gang of Three' (Micklon, Holland and Smith) would have attempted something like this and she would have accepted it. To me, it's political suicide and morally wrong."

Holland said Leighninger deserves to serve out her contract, and that he feels bad for the position she is in.

"It's frustrating and she's been caught in this storm between Dick Gregory and myself since I hired her,"

Holland said. "Everyone thinks this has to do with 'Marcia, Marcia,' but she's been a very good employee."

He said he could only see Leighninger challenging the board's decision if and when "she decides to leave or they decide to fire her."

McBride yesterday refused to release a copy of the letter he gave to Leighninger.

"I believe that's personal and confidential," he said. McBride said he signed the letter, and that it was written by town lawyers.

McBride also refused to release a copy of the legal opinion selectmen were given Wednesday night by two lawyers from the Manchester firm of Sheehan, Phinney, Bass & Green, who are among the law firms the town employs.

When McBride was asked whether he believes the board has a duty to be more informative about the process | given the outrage expressed by voters after the new contract was signed | he said: "I think we have. That's all I'm going to say and that's it. There's nothing else to say."

Through his campaign for selectman, Belanger said he wanted to work with Leighninger and that he would not join the board as the third vote needed to fire her. After she signed the new contract, however, Belanger accused her of showing an unwillingness to work with the board.

"I hope that everything is put behind us and we start getting a good working relationship with the five of us and the manager," Belanger said yesterday.

As Leighninger said she wants to serve out the remainder of her contract, McBride said that will happen "as long as she does her job. A person doing the job will be there for a long time."

Asked about how he views Leighninger's job status, Gregory reiterated a sentiment he's expressed before: "Sometimes when things aren't going good, you have to change the coach. The town is bleeding and we need to start plugging up these holes. We can't have all of this fighting going back and forth."

► Salem Public seeks Selectmen's resignations

■ *Continued from Page 1*

Last night's meeting brought out critics of Micklon and Smith and supporters of Leighninger.

"I've lived in town for 13 years and I've never gotten involved in politics because it seemed like things ran fairly well," said resident Rick Moreau. But the changes in the contract and similar votes by the board over the past year brought him out to last night's meeting.

"The attitude they've got is that they know better than the citizens and that the changes made to the contract was done for the good of the town," Moreau said. "We know they're not going to resign. They're too egotistical, but we wanted to make a statement."

Moreau hopes that statement will endure until March 2005, when Smith is up for re-election. "I hope next election it's heard loud and clear," said Moreau, who works as an engineer.

But resident Beatrice Giorno said she did not want the board to think the entire town was against them. Giorno said she thought the board has been working well together and supported Leighninger as manager.

"She's an intelligent woman and I admire her," Giorno said. "The same goes for Stephanie Micklon and Phil Smith."

Holland defended his actions last night in front of residents, saying it was a way to defend Leighninger from the "attacks" against the manager since she was hired.

"She's done an admirable job," said Holland, noting Leighninger was a quick study to a new job field. Holland made his comments brief in anticipation of the upcoming court challenge by resident Michael Carnay Jr., who is contesting the legality of the meeting.

"I had a lot of things I wanted to say but with the way things are going, it looks like this is headed to court and I could be called as a wit-

ness," Holland said.

Earlier in the meeting, Giordano took aim at Holland's reason for wanting to change the contract: Leighninger was to be fired, according to rumors being circulated around town.

"Since when did governing bodies begin acting on rumors?" she said. "We're embarrassed about what's happened."

Pat Hargreaves, a Budget Committee member, said, "The entire board is a joke." He said board members should simply shake hands and put "pride" back into Salem politics.

Selectman Ronald Belanger said

the controversy involving Leighninger's contract since he took office three weeks ago has been an insult to him as well. Belanger said he has been wrongfully blamed as a cause for the new contract being forged, referencing an earlier comment by Holland who said he did not want to see Belanger as "the third vote" to fire Leighninger.

"I'm going to set the record

straight," Belanger explained. "I said that I'm going to work with her (Leighninger), and work with the entire board. ... I don't like what the previous board did. They put a big boulder on my shoulders. I feel it's unfair what they did."

By JAMES A. KIMBLE

STAFF WRITER

SALEM — Angry residents called for the resignations of Selectmen Stephanie Micklon and Phillip Smith last night with a petition of 629 names supporting their removal,

saying the pair's votes to change the contract of Town Manager Marci Leighninger on March 11 "isolated the public trust."

"Any credibility the town manager

had been building was lost when she signed the contract," said resident Mary Samper Giordano, an organizer for the petition dubbed "Operation Take Back."

Both Micklon and Smith said they had no intentions of stepping down, and defended their votes in giving Leighninger a larger severance package — worth about \$188,000 if she were fired today — than what was called for in her original contract, which was six months salary or about \$42,500.

The contract changes were made at a closed-door meeting March 11 called by Board of Selectmen Chairman James E. Holland Jr. hours before he was to give up his seat on the board. Giordano said she could have collected more signatures, but I'm not going to resign. ■

Please see SALEM, Page 5

■ Continued from Page 1

"ready, willing and able to perform the duties of town manager." The new contract also calls for an automatic six months of pay — worth \$42,500 — if she quits. Under old terms, she could be fired without cause and receive six months of pay.

Holton's raise sparks the latest controversy between the board and town manager. Holton's hitting last summer followed Leighninger's firing of seven-year Personnel Director Mary E. Donovan, who was given a police escort out of Town Hall. Her firing came 30 days after Leighninger became town manager, and Donovan's lawyer has notified the town of her intent to sue for wrongful termination.

Some selectmen questioned Holton's hiring, suspicious as to why Leighninger refused to re-

lease a copy of Holton's resume or disclose her qualifications. Leighninger refused a Right-to-Know Law request filed by The Eagle-Tribune after the hiring, and Selectman Everett P. McBride Jr. said the town manager also refused to give him a copy. Leighninger and Holton worked together with the state Department of Public Safety, and Holton quit her state job one day before Donovan was fired. Holton was hired at a salary of \$50,273 in August when

Leighninger selected her over eight other candidates. McBride, the board's new chairman, refused comment about the raise yesterday. Miskton said she was busy, and offered no comment to town manager, and McBride was

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Leighninger trying to get fired, say pair of selectmen

By JASON B. GROSKY
STAFF WRITER

SALEM — After finding out that Town Manager Marcia L. Leighninger is giving a pay raise to an colleague she hired as personnel director, two selectmen believe Leighninger is trying to get herself fired. "If she gets fired, she gets a nice chunk of change," Selectman Richard R. Gregory said.

But Leighninger said yesterday the raise was guaranteed in the contract she gave Brooke E. Holton when hired as personnel director in August.

"Most new employees get a six-month review," Leighninger said. "That's pretty standard across the town."

When asked the amount of Holton's raise, Leighninger said: "I don't have the finance paperwork."

She said the raise is in addition to the 2.6 percent "cost-of-living" pay increase Holton and all other department heads are receiving.

The subject of Holton's raise melded some old political bad feelings with new ones yesterday.

Former Selectman James E. Holland Jr. accused Gregory of harassing Leighninger, while the man who knocked Holland off the board this month — Selectman Ronald J. Belanger — sided with Gregory in his belief that Leighninger is pushing selectmen to fire her.

In the three-day period between Holland losing the election and Belanger being sworn in, Holland and Selectmen Stephanie K. Micklon and Philip A. Smith renegotiated Leighninger's contract, giving her more job security.

The new contract terms give her an automatic contract buyout worth about \$198,000 if fired while

Please see LEIGHNINGER, Page 5

It's session tomorrow night to discuss a legal opinion they sought regarding their March 11 closed meeting in which changes to Leighninger's contract were made. Gregory said he believes the meeting was held illegally, contending the board did not follow the Right-to-Know Law when it went behind closed doors. While three selectmen supported the contract, that allows for the lame-duck period after an election.

While talking about Holton's salary, Belanger said the town is also paying for a portion of her current schooling for what he said are personnel-related classes. Belanger said he knows because he was asked to sign off on one of her tuition reimbursement forms.

"It's a slap in the face to the board and the taxpayers to give this person a raise," Belanger said. "I'm not saying she does or does not deserve a raise. But before that happens, her resume should come before the Board of Selectmen."

Gregory and Belanger are "crazy" to suggest that Leighninger is trying to force her way out of the town manager's job, according to Smith.

"She's working as hard as she can," Smith said. "She's there weekends and nights putting in all of this extra time without being paid for it."

Selectmen — "meet in nonpub-

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Senior housing boom sweeping Southern N.H.

BY JAMES A. KIMBLE
STAFF WRITER

It wasn't long ago that Salem had few places where its senior citizens could move once their split-level and ranch homes turned into empty nests.

Then, after the town lifted a five-year moratorium on new housing in 2002 and

implemented zoning laws to encourage senior housing projects, developers put seven such proposals before the Planning Board within a year and a half.

Five of them passed, two were rejected, and three are under construction. Now the town stands to gain 404 units of condominiums, apartments and small homes dedicated to older residents.

Salem is hardly alone. Across Southern New Hampshire, towns are taking measures to encourage housing for those age 55 or older, which many see as a means of generating property-tax revenue without increasing the demand for school services that drive up local education costs and residents' tax bills.

Many developers like to build senior

housing because towns typically allow them to build more apartments, condominiums or small houses than normally permitted. In Salem's case, a builder could construct nearly twice as many units on a piece of land — depending on how the property was zoned.

Demand for age-restricted projects has been sweeping Rockingham County — es-

pecially in the county's more rural belt, which includes Sandown, Chester, East Kingston and Brentwood.

"It has been one of the more significant trends we've seen in the last three or four years," said Glenn Greenwood, assistant director of the Rockingham County Plan-

Please see HOUSING, Page A4

HOUSING: More homes for people 55-and-up

■ Continued from Page A1

ning Commission. "Towns are looking to create the opportunities for senior housing."

Part of the reason is the baby boom generation is heading into retirement. New Hampshire's senior population is expected to surge from 148,000 in 2000 to an estimated 408,000 by 2025, according to state census figures.

The majority of senior age-restricted developments in New Hampshire are designated for seniors 55 and older — a demographic where couples are still working, have grown children and are nearing retirement. If not already there,

But as the trend toward more senior housing continues, some are starting to worry that it comes with a cost.

If all 402 senior units are built in Salem, some planners worry it could overwhelm the town's water supply and those of its water supply companies.

"They are all coming in a relatively short period of time," said Salem Town Planner Russ Moldoff. "and the concern was, how are we going to handle all this, and what's the impact on traffic and elder services?"

Just last week, voters in Salem reacted by approving a measure to cap the number of senior units to 120 per year unless a developer can convince the Zoning Board otherwise.

In addition, at least 10 percent of the units in all future senior housing developments must be affordable housing.

Developers who already had their projects approved in Salem won't face the new restrictions or building cap. Those with plans still pending before the Planning Board will have to apply for a variance if they want to build more than 50 units in a single year.

Steven Lewis, a developer planning to bring an affordable housing project to Salem, said he's not concerned about Salem's new cap on senior developments because his plans have been well received by the majority of town officials.

But Lewis said Salem's move to create a cap on senior housing is a "knee-jerk reaction" that could get the town in trouble if a developer or housing advocate group challenges the new rules in court.

"For towns to enact a moratorium or make changes without the statistical evidence or doing the homework could get them in trou-

ble," Lewis said. "It's a good idea, and \$200,000, and attract high interest among seniors living in the Merrimack Valley hoping to move north to the Granite State."

Their children have moved to Southern New Hampshire. These from Methuen and Haverhill, and want to get near the kids," said Drowne, a longtime Sandown resident. Drowne recently lost a bid at Town Meeting to change Sandown's senior housing ordinance so that only one residential needs to meet the age 55 requirement.

"Right now you're penalizing someone if you and your wife are in your 70s or 80s," he said. "It's a major issue but I'm not giving up on it," said Drowne, who is hoping it will pass the muster of voters next year. Drowne said residents at this housing complex have to sign an affidavit filed with the town to ensure they meet the age requirement while a developer could still be built on, a developer could still have gained approval for 200 units prior to the townspersons approving this latest round of restrictions last week, said Moldoff.

"Now that we've gotten more experience reviewing senior housing plans, we made changes to deal with those problems," said Moldoff.

Some developers displeased with the new restrictions in Salem believe the demand is high enough in New Hampshire for them to apply housing elsewhere.

Ed Humminck, a Salem resident and developer who recently won approval for a work force housing project in Nashua, said the new senior housing restrictions in Salem have made the goodwill effort by developers to include affordable housing more difficult.

"If I were looking to do something in Salem now, I'd have to provide units I consider affordable," said Humminck.

"Unless you get the density, you can't make it work," he added. "To make it cost-effective you need at least 24 units to a building."

Humminck said Salem's situation is ironic because the town that once wanted to encourage the development of senior housing is now putting a cap on it. In just a few years, Humminck said he has faith in town planners to do what's best for Salem, but added the town needs to go to a serious look at how Salem's going to grow in the years to come.

"They need to start planning for the future," said Humminck. "As a community, they're going to need work."

Two other senior projects are al-

so before Sandown's Planning Board, and the town's population of

5,700 residents is sure to swell as a result. One plan calls for 162 town-

houses of Wells Village Road, and

a second would bring 38 condo-

miniums on Little Mill Road.

Drowne said the homes in his project are selling between \$179,000

way.

Whether the influx of such housing projects will be done in cooperation with the federal Department of Housing and Urban Development. The apartments will be sold at below-market rates to qualifying people age 55 and up, with the government giving Lewis tax breaks to offset the lower rent prices.

Because the majority of senior housing projects in Salem sell at market rates, some say affordable senior projects in Salem are being built — a developer could build 10 apartments or condominiums for every acre on the property, or 200 units total.

If 15 of those acres were set aside for senior housing, a developer could still have gained approval for 200 units prior to the townspersons approving this latest round of restrictions last week, said Moldoff.

"Now that we've gotten more experience reviewing senior housing plans, we made changes to deal with those problems," said Moldoff.

Meanwhile, other towns are jumping on the senior housing bandwagon.

In Sandown, where the first senior housing project in the town's history is being built, Richard Drowne and his wife, Norma, are constructing 64 ranch-style houses off North Road where residents can lead a "maintenance-free lifestyle." The housing community will have its own trash disposal and plowing services instead of the town having to pay for it.

The Drownes' 38-acre lot in Sandown is connected to another town because we accept the taxes, but there will be no cost to trash and plowing," said Sandown Planning Board Chairman Ed Meneses.

Meneses acknowledges more housing could increase the town's need for police and fire services, but said the project also fulfills a need for seniors who want to move out of their homes into smaller houses where they don't have to mow lawns or perform major yard work.

Two other senior projects are also before Sandown's Planning Board, and the town's population of 5,700 residents is sure to swell as a result. One plan calls for 162 town-

houses of Wells Village Road, and a second would bring 38 condominiums on Little Mill Road.

Drowne said the homes in his project are selling between \$179,000

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Drowne recently lost a bid at Town Meeting to change Sandown's senior housing ordinance so that only one residential needs to meet the age 55 requirement.

"Right now you're penalizing someone if you and your wife are in your 70s or 80s," he said. "It's a major issue but I'm not giving up on it," said Drowne, who is hoping it will pass the muster of voters next year. Drowne said residents at this housing complex have to sign an affidavit filed with the town to ensure they meet the age requirement while a developer could still have gained approval for 200 units prior to the townspersons approving this latest round of restrictions last week, said Moldoff.

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Sunday, March 21, 2004

An iron curtain of secrecy surrounds Salem government

By Wallace E. Stickney
Special to The Eagle-Tribune

Based on my more than 40 years of service in local, state and federal government, and as a longtime citizen of Salem, it is absolutely clear that the actions by Salem's past Board of Selectmen and the administration they installed nearly a year ago were outrageous in terms of open government and probably illegal as well.

The veil of secrecy imposed by the past board and the administration since last year is an affront to government in a free society. Almost a year ago the past Board, forsaking the normal search and evaluation process, hired a manager having no disclosed management credentials. The public was excluded from the details of the hiring process and the terms of the contract. When a credentialed and experienced personnel director attempted to follow the tenets of open and legal government, she was summarily dismissed and escorted from her office by a police officer.

Almost immediately, the manager tapped a former associate of hers to be personnel director. Based on news articles, (secrecy prevailed) it was apparent that the resume of this former associate exhibited few or no expressed credentials or proven experience in municipal personnel work. The details were once again withheld. Withholding information on those actions at that time was probably illegal and certainly unethical. Moreover, it is now clear that they thought they could get away with it as a general practice.

The iron curtain around Salem's past Board of Selectmen and its administration had slammed shut. Normal operation became, as Churchill once described Russia, "...a mystery wrapped in an enigma."

Reel forward to this year's election: The voters overwhelmingly rejected Selectman Holland and the brand of government exemplified by the board under his leadership. Refusing to recognize or accept the mandate of the people and

acting in haste before the new Selectman could be sworn in to office, he called a special secret meeting of the board and forced through a new employment package for the manager.

This package also contains a proviso that a supermajority will be required to replace the manager and potentially obligates the Town to significant future costs.

If these actions are allowed to stand, more than questionable government ethical behavior is involved: Much more. The actions of that board, acting in lame-duck secret session could cost as much as a half-million dollars or more in obligations and legal fees and much more than that in the loss of effectiveness of the delivery of government services. And it was done in direct contravention of the will of the voters expressed at the polls just two days before.

Therefore, the legality of the secret meeting must be challenged to establish once and for all if the meeting itself was illegal, if the secrecy after the meeting was illegal, and if the actions taken during the meeting were illegal. There are many aspects open to question. Some of these are:

1. Can a vote by a simple majority bind future selectmen to a supermajority vote requirement, especially in lame-duck session two days after an election? To accept this essentially leaves the prior Chairman as a voting member of the board able to effect policy days after he was voted out of office and, as he has since admitted to the press, because he was voted out of office. Why else was this action not taken in full public view any time in the year before the election?
2. Can a board withhold simple contractual decisions from the public, refusing to disclose them in public session and even to the citizens of Salem assembled at town meeting? Moreover, should they have simply out of respect for open government?
3. Exactly what were the steps taken to call the secret meeting? Was there appropriate public notice? Was an agenda posted? Was it posted as an emergency issue and if so, what was the emergency issue? The law is clear. It requires all meetings to be posted the same way, must include the issues to be considered. All meetings must begin and end as public meetings and must be properly posted.
4. Was an open public meeting convened in a room in which the public normally expected the Selectmen to meet and was free and open access allowed prior to the vote to go into non-public session?
5. Who took the minutes and recorded the votes? Who has this

document?

6. Since the meeting clearly was designed to benefit the town manager and resulted in the manager receiving significant benefits, it is hard to make the case that the non-public session was needed to protect the rights of the manager. It is easy, however, to make the case that the non-public meeting was called to insulate the selectmen themselves from the scrutiny of the public in making decisions that have significant financial and policy ramifications for the community.

7. Actions and votes should always be taken in public session unless there are legal and overriding reasons for taking actions in non-public session. What were these reasons? Did the selectmen come out of the non-public meeting, open the doors, invite the public in, re-open the public meeting and then take their vote in public session?

8. Why seal the minutes? Was the sealing of the minutes simply a procedure designed to prevent all Selectmen from speaking out thus preventing the public from knowing that votes had been taken in private session, at least until after the annual town meeting? Was legal advice sought? If so, who provided the advice and what was the legal theory upon which this advice was based?

I'm sure there are other questions that must be posed and answered as well. There are massive implications here. For instance, in the case of a three-person board, two being defeated at the same election (yes, it can easily happen), decisions taken in pique could be taken by selectmen already defeated in election that could extend their authority well beyond their legal terms in direct defiance of the wishes of the electorate. On a five-person board, two defeated officials working in concert with a remaining sympathizer could achieve the same nefarious ends. And, even though the citizens had already expressed their will in defeating the lame ducks, they would be powerless! They could do nothing about it.

It is time for Salem's citizens to draw a line in the sand and demand both public responsibility and civility from public officials. The existing situation is unacceptable.

Wallace E. Stickney writes from North Salem, N.H.

Next Story: Merrimack bridge builders out-engineer 8 colleges

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Online editor*

Severance package sparks firestorm

B-6/6b
3/21/04

Changes made by lame-duck board

By James Varnis
globe.com

Some residents in Salem call it "Operation Take Back," thwarting the will of the people.

If Marcia Leighninger, the controversial town manager, is fired by the new Board of Selectmen, he would be entitled to receive her entire salary for the remainder of her three-year contract, which could carry a payout valued today at nearly \$200,000. Even if she quits, she would be entitled to receive six months of her \$35,000 salary.

The severance packages are part of a revised contract negotiated by a lame-duck majority on the Board of Selectmen in its final

days of power this month, before the swearing in of a new board March 12, which created a minority of members critical of Leighninger. Before her contract was revised, she could only receive six months of her salary if she was fired without cause.

The deal has touched off a political firestorm with some residents circulating petitions calling for the resignations of Stephanie Micklon and Philip Smith, the two remaining selectmen on the five-member board who approved the changes. (The third selectman who voted in favor of the packages was James Holland, who lost his seat in the town's annual elections earlier this month.) Many residents are expected to turn out tomorrow night at the new board's first regular meeting.

SALEM, N.H. PAGE 4

MARCH 21, 2004

Lame-duck board changes contract, sparks firestorm

► SALEM, N.H.
Continued from Page 1

"I think they breached the public trust by meeting secretly and changing Marcia Leighninger's contract before the new Board of Selectmen started," said Mary Samperi Giordano, spokeswoman for the petition drive, which has been dubbed Operation Take Back. "This contract is not in the best interest of the town. It's in the best interest of Marcia Leighninger."

But Holland, who initiated the changes, stands behind the agreement. He said the revisions were necessary to secure Leighninger's job, because rumors were swirling around town that an impending shift in the composition of the board's majority, prompted by his ouster at the polls and the election of Ron Belanger, would lead to a vote to fire her. New Hampshire law leaves a three-day period between annual elections and the swearing in of new officials, and it was during that time the changes were made at a last-minute special selectmen's meeting.

"I guess what I did was a reaction to what I was hearing — People high-fiving and saying we can have her fired and escorted out of Town Hall by the police," Holland said. "We need to keep good people who are working for the town and not have them subject to political whims."

Everett P. McBride Jr., who is the new chairman of the board and voted against the revisions, is asking the Manchester law firm Sheehan, Phinney, Bass & Green to review the legality of the revisions, particularly a new requirement that four of the five board members must approve a termination, which seems to counter a state law requiring only a majority. There is also a question of whether the special meeting was ever called to order in public session before a motion was taken to meet in secret.

McBride along with Belanger and Selectman Richard Gregory, who abstained from voting on the revisions in the contract because



GLINE STAFF FILE PHOTO/JOANNE RATH

Marcia Leighninger could receive up to \$200,000 in severance pay if she is fired as Salem's town manager.

he believed the meeting was illegal, have said they have no intention of firing Leighninger, but Gregory has said he wants to set up goals and objectives for the town manager.

"I personally have no interest in firing the gal, and I'm the third vote," McBride said. "So I'm not sure what they were worried about."

Leighninger has been at the center of controversy since before her hiring last year. In considering her for the job, the Board of Selectmen in a 3-to-2 vote decided not to review her personnel file from her days as the town's police prosecutor. The board later voted, 3 to 2, to offer her the job.

She then fired the town's human resource director, who raised questions about the process that led to her hiring, and asked police to escort the director out of the building. More recently, Leighninger, a Salem resident, supported Holland in his reelection bid.

The revisions approved earlier

this month were a compromise of what Holland originally proposed. Initially, he sought a provision that would require unanimous approval by the whole board to fire Leighninger, and he constructed a clause that would have provided Leighninger her entire salary for the balance of her contract if she quit. Holland said he thought that was fair because he feared the new majority might

harass her until she quit.

But Smith, often an ally of Holland and Micklon, objected to the strong language and brokered a compromise.

"I thought it was fair because rumors were rampant that the [new majority] would discharge her," said Smith, noting the town has experienced the departure of four town managers since 1999. "I'm sick of the revolving door of town managers. I'd like to see some stability."

Leighninger and Micklon did not return calls for comment.

This contract is not in the best interest of the town. It's in the best interest of Marcia Leighninger.'

MARY SAMPERI GIORDANO
Operation Take Back

"I thought it was fair because rumors were rampant that the [new majority] would discharge her," said Smith, noting the town has experienced the departure of four town managers since 1999. "I'm sick of the revolving door of town managers. I'd like to see some stability."

Leighninger and Micklon did not return calls for comment.

Editorial

THE ISSUE

Out-going Selectman Chairman Jim Holland used his last few hours in office for last-minute maneuverings to change the town administrator's contract.

OUR OPINION

By making it difficult and expensive for the new board to fire the town manager, should they wish to do so, Holland's actions not only didn't serve residents' best interests, they tarnished the reputation of the town.

Making Machiavelli proud

Nicolo Machiavelli would have been proud of some members of Salem's Board of Selectmen in the days following last Tuesday's election as they shifted into high gear to protect their best interests. Machiavelli's famed treatise, "The Prince," was a manual for "real politick," or the creation of, and action on, governmental policy based on retaining power rather than pursuing ideals.

Not only would he have been proud of their attempts to consolidate their influence, he probably could have taken a few lessons.

Within hours after the election results showed former selectman Ronald Belanger had defeated incumbent James Holland, Holland called a special meeting to review Town Manager Marcia Leighninger's contract.

A recently enacted law gave Holland 72 hours before Belanger was sworn in and Holland was out. And he used every one of those hours to ensure firing Leighninger — should selectmen elect to do it — would prove more costly to the town than keeping her.

The meeting took place Thursday at 3 p.m. and the board members voted 3-1-1 to pass the changes. The vote was typical of the rift that has plagued the board throughout the year. Holland, selectmen Phil Smith and Stephanie Micklon voted in favor, with Selectman Everett McBride voting against and Selectman Dick Gregory abstaining.

While Smith has remained consistent in his stance that he wants to judge Leighninger before deciding on how she handles the office, what Micklon and Holland did flew in the face of the public interest.

Government officials are,

ideally, to serve the best interest of the people they represent. By calling a non-public meeting to discuss and change the town manager's contract, Leighninger, Holland and Micklon showed they have no one else's interest but their own at heart. Their efforts, for good or bad, will ultimately cost Salem residents money if Leighninger's contract needs to be bought out, or lawyers' fees if the case goes to court. And more than dollars and cents, their actions tarnished the reputation of the government. Leighninger's acceptance of the new contract eroded any trust in the town manager's office.

Recent postings to the town's unofficial forum page, salemnhforum.org, bear this out. People are now calling for Micklon and Smith to step down from office and are railing against Leighninger for going along with the contract.

Last September, when the controversy over Leighninger had reached a peak, there was public outcry against her hiring and the rift in the board. Smith spoke at the meeting, asking for residents to give the manager a chance, and said the revolving door for town managers had to stop. He said the town had spent \$186,000 in severance and separation pay to past town managers and some stability was called for.

Under the new contract, Leighninger agreed that if she were to be fired it would take a four-vote supermajority and she would receive almost \$200,000 for a contract buy-out and severance. The question remaining is where was the concern for the people of Salem in the deal?

Machiavelli would have truly been proud.

3/17/04

► Salem

Chief cites meddling by manager

Donovan contacted AG with concerns over firing

BY JASON B. GROSKY
STAFF WRITER

SALEM — Police Chief Paul T. Donovan was so concerned about what he perceived as meddling in his department by Town Manager Marcia L. Leighninger that he wrote to the state attorney general and hired his own lawyer last fall.

Donovan said yesterday he was also concerned at the time that Leighninger, with the support of some selectmen, was planning to fire him.

"My position was that they were just crazy enough to do something like that," Donovan said. "Right now, we're in a state of limbo where nothing's happening."

Donovan wrote to Attorney General Peter W. Heed at the end of

last October and did not make the letter public. He agreed to talk about his concerns after learning a draft copy of the letter was out in the community.

Donovan said he will conduct an internal affairs investigation into how the draft got out. He has already changed the locks on his office door and bought lockable file cabinets.

The chief said he contacted Heed because he thought Leighninger and some selectmen were interfering in the day-to-day operations of his department.

"I have an idea of how the Police Department should be run, and there can only be one person directing the position of the Police

Please see SALEM, Page 4

SALEM: Chief wrote AG over concerns

■ *Continued from Page 1*

Andru H. Volinsky. "I did have a few people working against me, and I did not do exactly what they wanted," he said, declining to be more specific. Stephen M. MacKinnon — who was police chief before Donovan and is following his successor's situtation from afar — said he wonders whether Donovan's troubles stem from Leightninger's seven years as the Police Department's prosecutor.

MacKinnon said his staff had multiple disciplinary issues with Leightninger, causing "much frustration" for her immediate supervisors. Leightninger did not return calls seeking her comment yesterday and declined comment Monday when asked about Donovan having contacted the attorney general.

Donovan said he remains concerned about his job status, despite a change in the balance of power on the Board of Selectmen resulting from last week's town election.

According to his contract, the chief cannot be terminated without cause. The manager is the official authorized to fire the police chief. Donovan said the town has no cause to fire him. "But that doesn't mean they wouldn't try," said Donovan, who is still represented by well-known Concord lawyer

officer and the father of police Lt. Philip A. Smith Jr.

Mickton and Holland did not return calls yesterday. Donovan said waiting to fill the second captain's position is taking a toll on him, and on Capt. Robert Larsen, Ganley and the department as a whole.

In Salem, the two captains are the top-ranking personnel below the police chief. Ganley — the son of the late police chief, John P. Ganley — has "stepped up" and filled in as captain without the title and extra pay, Donovan said. The chief

of Selectmen Stephanie K. Mickton, Philip A. Smith and James E. Holland Jr. voted to hire her as town manager. The job pays \$85,000 a year. Over the objections of Selectmen Everett P. McBride and Richard R. Gregory, the three selectmen refused to review Leightninger's personnel file from her days as prosecutor before giving her the job.

Last week, hours before Holland was replaced by newly elected Selectman Ronald J. Belanger, the three selectmen altered Leightninger's three-year contract. Under

the new terms, Leightninger would require the vote of four out of five selectmen (instead of a simple majority of three selectmen) and termination would entitle her to a full contract buyout worth at most \$200,000.

Asked about Donovan's assertion that selectmen have meddled in police department business, Selectman Smith said he intentionally stays away from the police station because of his connections there. He is a retired Salem police

plucked from his captain's position with the Hartford (Conn.) Police Department in September 2001. Leightninger quit her prosecutor's job in December 2002 and took a similar position with the state police. She returned to Salem last summer when Selectmen Stephanie K. Mickton, Philip A. Smith and James E. Holland Jr. voted to hire her as town manager. The job pays \$85,000 a year. Over the objections of Selectmen Everett P. McBride and Richard R. Gregory, the three selectmen refused to review Leightninger's personnel file from her days as prosecutor before giving her the job.

Leightninger did not return calls seeking her comment yesterday and declined comment Monday when asked about Donovan having contacted the attorney general. Donovan said he remains concerned about his job status, despite a change in the balance of power on the Board of Selectmen resulting from last week's town election.

According to his contract, the chief cannot be terminated without cause. The manager is the official authorized to fire the police chief. Donovan said the town has no cause to fire him. "But that doesn't mean they wouldn't try," said Donovan, who is still represented by well-known Concord lawyer

and Epping Police Chief Gregory Dodge, president of the New Hampshire Association for Chiefs of Police. He also sent them copies of his letter.

Reams said he advised Donovan of guidelines written about three years ago by former Attorney General Philip McLaughlin. The guidelines attempt to draw a line between "law enforcement functions and financial oversight functions" when it comes to selectmen or other town officials attempting to "interfere" with law enforcement issues, Reams said.

"It's not an unusual request, unfortunately, from a police chief who feels that selectmen or others are trying to interfere with law enforcement issues," Reams said. Reams said that in three years, he's received complaints from six police chiefs concerned about political meddling in police operations.

Reams said that in three years, he's received complaints from six police chiefs concerned about political meddling in police operations.

County Attorney James R. Reams and Epping Police Chief Gregory Dodge, president of the New Hampshire Association for Chiefs of Police. He also sent them copies of his letter.

"There's only one way that letter could have gotten out, and that's someone let themselves into my office," Donovan said. "I take that as a very serious integrity breach, not just against me, but against the public trust."

Donovan said he has suspicions about who is responsible. He said some people within the ranks are still upset that an outside candidate was chosen for the chief's job.

"There are still one or two not happy with the selection (former town manager Jeff Towne made a couple of years ago and would like to try to change it," Donovan said. "They don't even deserve to wear the badge. I'm not accusing anyone in particular, but I have my ideas."

Donovan, 50, said he has no plans to leave Salem anytime soon.

3/16/04
Union Leader

The Editorial Page

Today's Quote:

It is only a step from victory to disaster.

NAPOLEON

Editorials

Salem shenanigans

More dirty politics in town manager affair

NO MATTER which side one takes in the endless controversy that surrounds Salem Town Manager Marcia Leighninger like a thick fog, it should be obvious to all that selectmen wrongly granted her a contract extension last week in what appears to have been an illegal private meeting.

Leighninger has been a lightning rod since she took the town manager's job last year. Selectmen were divided over her hiring, and she exacerbated the trouble by immediately firing Human Resources Director Mary Donovan, a seven-year veteran. The fireworks continued after Leighninger replaced Donovan with a former employee of the Department of Safety, which is where Leighninger last worked before taking over as town manager.

Selectmen have split into pro- and anti-Leighninger camps, and former board chairman James Holland was on the "pro" side. So it looked more than a little suspicious that Holland, who was voted out of office on Tuesday, called a secret selectmen meeting shortly before his

term as board chairman was to end on Thursday. At the meeting, which did not include newly elected board member Ron Belanger, a Leighninger opponent, selectmen gave Leighninger a new contract that would require the town to pay her nearly \$200,000 were she to be fired without "just cause." The contract also says Leighninger cannot be fired unless four members of the five-member board vote to terminate her employment.

Selectman Stephanie Micklon said of the last-minute contract deal, "we just wanted to take the politics out of it."

Far from being apolitical, the extension of Leighninger's contract was a purely political move concocted by lame duck board chairman Holland to protect Leighninger from newly elected board member Ron Belanger. It also appears to have violated the state's open meetings law.

And far from ending the controversy, Holland's last-minute, backdoor maneuver has further inflamed it. The people of Salem deserve better than this from their local government.

A terrorist victory

Al-Qaida wins Spanish election

REGARDLESS of whether al-Qaida was behind

long wanted to win back Spanish lands once controlled by the Moors. In any

The winner of Sunday



Al-Qaida bombs to

MEASURED BY the immediacy and importance of their political effect, the train bombs in Madrid were the most efficient explosions in the history of terrorism. Detonated 74 hours before polls opened in a national election, the reverberations toppled a U.S. ally.

Seven decades ago Spain became a cockpit for the 20th century's contending totalitarianisms — fascism and communism. Its 1936-39 civil war, a witches' brew of political and religious passions, was as



GEORGE F. WILL

taught them which side in Spain had been rebelling.

The immediate danger for Americans in the aftermath of Madrid is that terrorists who struck there are as ignorant of today's Americans as those

NEW HAMPSHIRE

eTribune

Pulitzer Prize winner in 1988 and 2003

Valley

ll have fallen, but with temperatures hovering around freezing, there is also the possibility of sleet and freezing rain. "It's going to be a heavy, wet snow — very difficult to shovel cause of the heavy water content," said Simpson. There may be a bright spot to a storm. It may prevent a sec-

Please see WEATHER, Page 10



▶ Salem

Manager releases contracts

Backers sought to require unanimous vote to fire

BY JAMES A. KIMBLE
STAFF WRITER

SALEM — Selectmen who wanted to protect the job of Town Manager Marcia Leighninger at first considered requiring a unanimous

vote to fire her and paying her for up to half the value of her contract even if she decided to quit.

The new details about the efforts to rewrite Leighninger's contract came to light yesterday as the town manager, under threat of legal action, released copies of her old and new contracts.

The changes to the manager's contract were proposed by selectmen Chairman James E. Holland Jr., who called an emergency, closed-door meeting the day before

he was to give up the seat following his defeat in last week's town election.

Holland joined Selectmen Stephanie Micklon and Phil Smith in approving the final version of the new contract.

As previously reported, the final version requires a "majority plus one" vote — or, four of five selectmen — to fire Leighninger, instead of a simple majority.

The original draft of the new contract states that "The Town, by unanimous vote of the Board of Selectmen, may terminate the Employee's employment at any time for cause."

The words "majority plus one" are handwritten above the words "by unanimous vote," indicating a change was made.

The new contract also requires the town to buy out the remainder of the manager's three-year con-

Please see SALEM, Page 2

SALEM: Original revision required unanimous vote

■ *Continued from Page 1*

tract. If she were let go today, the payment would amount to about \$198,000.

Her original contract allowed a majority of selectmen to fire her "at any time with or without cause." If fired for cause, she would not have collect any severance pay. If fired without cause, the manager would have received six months' pay and six months' insurance coverage.

Under the new contract, Leighninger would also receive all health and benefits until June 2006 and would be paid for unused vacation, holiday and sick time. The manager is allowed to accrue up to 45 vacation days.

The contracts released by Leighninger also show that under both versions, she is paid a \$300-a-month allowance to use her own vehicle for work and is also paid for a cell phone and pager. In addition, the contract allows her to work up to 10 hours a week performing consulting work for another employer. It is not known if Leighninger has worked as a consultant.

Leighninger, who previously claimed her contract was not a public record, released copies of the old and new pacts late yesterday. The Eagle-Tribune's lawyer, Peter J. Caruso, had warned Leighninger that she could be required to pay legal fees if a court ruled she willfully withheld a document she knew, or should have known, was a public record.

The legality of the new contract is still being questioned by some town officials.

The new selectmen chairman, Everett McBride, who met with Leighninger yesterday, said the board is asking a Manchester law firm to determine if the majority-plus-one clause in Leighninger's contract is legal.

If that provision is illegal, it would be deleted from the contract.

A state law specifies that a town manager "shall in all matters be subject to the direction and supervision, and hold office at the will, of the selectmen who may by a majority vote remove him at any time for cause."

McBride plans to drop off materials tomorrow regarding the contract to the firm Sheehan, Phinney, Bass & Green in Manchester.

"I talked to the manager tonight, and I think the question we really have is whether the majority vote is legal. As for the rest of the contract, while we may not agree with it, it stands. We need to move on," he said.

McBride, who refused to discuss last week's nonpublic meeting, said Selectmen Ronald Belanger and Richard Gregory also want the legal opinion.

Gregory said he also wants a court judge to determine whether last week's closed-door meeting broke the state's right-to-know law. Any citizen can ask a Rockingham Superior Court judge to decide whether the meeting was le-

gal, according to Orville Brewster "Bud" Fitch II, an assistant attorney general.

"Whoever has that concern, under the provision of the right-to-know law, they could go to supervisor or court," said Fitch, head of the AG's civil bureau.

Gregory believes the meeting was illegal for two reasons. First, the notice for the meeting made no mention of a public session when board members would vote to go into a closed-door session. Second, Selectman Stephanie Micklon closed the door to the room where board members met, thus closing out the public from witnessing the vote to go into secret session, according to Gregory.

If the selectmen's meeting was found to be held illegally, that could void the changes selectmen made to the contract last week, according to Fitch.

After the contracts were made public yesterday, Gregory acknowledged that the board at first discussed requiring a unanimous vote to fire the manager, along with a severance package if Leighninger left on her own.

"That was the original proposal, the piece of paper that the chairman typed up said you needed a unanimous vote to can her, then if you look at paragraph B, it says if she left on her own she got half of her contract," said Gregory.

Gregory credited Smith with blocking the provision that would have paid half of Leighninger's contract if she quit.

Smith, who described himself as

overwhelmed by public criticism of the decision to revise the contract, said he supported the new contract to stop Salem's cycle of firing town managers. Former managers Stephen Daly and David Owen were terminated by the board for political reasons, he said. Jeffrey Towne left for a consulting job last year and was replaced by Leighninger.

"I'm frustrated that this town can't hold on to their town managers," said Smith. "David Owen was a good town manager. Jeff Towne was a good town manager. Any one of them could have run our town. For political reasons the board voted to let them go, it's a shame, it's a pity. Now I'm getting knocked around because I tried to stop that."

Smith said he believed the super-majority rule selectmen installed isn't as big a deal as some have portrayed. "Truthfully, that doesn't mean anything. If you make life miserable for them, they leave," Smith said.

Belanger, who has pledged to work with Leighninger since being elected, said Leighninger can end the controversy herself.

"I'd like to see her ask to meet with the entire board and tear it up and pledge to work with the board," said Belanger about the contract. "I think that would clear the air up an awful lot. I wasn't going to fire her. I wanted to work with her. Now the ball is in her court to work with the board."

"The people in the street are irate," Belanger added.

on March 27 and is seeking donations of individually wrapped candy and small prizes for the event, as well as volunteers to help stuff, count and hide eggs the week prior.

Continued From Page B1

anticipates Ahie will soon be back on the job.

"I am very happy for him and his family that it worked out the way it did, and it will be nice to have him back," Beaudoin said.

nt is Saturday

one- and three-year budget committee positions, and one-, two- and three-year cemetery trustee seats.

A recount was also called for zoning article 42 that would allow temporary signs in the Main Street commercial district. It initially passed by only three votes, 768-765.

The board of recount will be composed of the town/school moderator, members from the boards of selectmen and school board and the newly elected town clerk.

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New Hampshire.

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at a premium a point. David to float temporarily shelving the town's \$1-million- late this spring. They're taking a was a stepping stone for us to get there," he said.

3/18/04

Salem chairman to consult lawyer

◆ Manchester firm's opinion will be sought on legality of closed meeting and new contract for town manager.

By JANINE E. GILBERTSON
Union Leader Correspondent

SALEM — The new chairman of the board of selectmen Everett McBride said yesterday the board will consult with the law firm Sheehan, Phinney, Bass and Green to review the town manager's new contract.

The new contract was forged during a special, nonpublic meeting called by former chairman James Holland called last Thursday nearing the end of his term. Holland said he called the special meeting to discuss Town Manager Marcia Leighninger's employment.

During the meeting, Selectmen Phil Smith, Stephanie Micklon and Holland approved changes to Leighninger's contract so she can only be fired by

a majority of the board plus one vote and increased the amount of money she would get if she were terminated without cause.

Under the terms of the new contract, Leighninger would be paid nearly \$200,000 if she were fired tomorrow.

Selectmen Dick Gregory and McBride were opposed to the new contract, and Gregory and newly elected board member Ron Belanger are questioning whether the meeting met state open-meeting laws.

Gregory contends the meeting was not opened publicly before selectmen voted to go into nonpublic session.

Also at question is whether the board can override RSA 37:3, which states the board can fire the town manager if a majority of the board vote to do so.

"We are going to consult with the attorney," McBride said, "and see what they have to say about all of this."

McBride said the law firm represented the town's budget

committee when they took the school board to court over a request for documents a couple of years ago.

Leighninger has said little of the latest political wrangling and only noted she was not present during the board's meeting.

Police Chief Paul Donovan said yesterday a draft of a letter he wrote to State Attorney General Peter Heed critical of Leighninger's management was never intended for public release.

Donovan said he wrote the letter in October to put Heed's office "on notice" that he felt he was having difficulty with the town's leadership and would be working to sort things out with Leighninger.

In his letter, Donovan, who was concerned about his job, said one of his chief complaints was that Leighninger did not approve a recommended promotion for Lt. William Galey to police captain to fill the

void left when Capt. Robert Tine retired last fall.

Donovan said after writing the letter, he had worked the issues out with Leighninger and felt the matter had been resolved.

He said it was unfortunate the letter was stolen from his office and leaked to the press, and that he did not intend for it to hurt Leighninger.

Micklon said she was furious to hear the letter had made its way into the hands of reporters and did not understand why Donovan did not go to selectmen if he felt there was a problem with the town's management.

She said the board did not have a plan to oust Donovan last fall.

"I am not very happy at all to think he had a problem and did not address it with the board," Micklon said. "If he thought he had a problem before, well he has one now. I'm very upset over this."

Continued From Page B1

Soccer

because two existing lines do not meet clearance requirements.

PSNH also is requesting that an Agreement and Consent to Joint Use be signed between the two parties, which would require the soccer club to remove or relocate portions of the proposed parking lot if necessary for future power lines.

Burt described these unresolved issues with PSHN as "unforeseen hurdles" that need to be investigated further. The club should know by this summer what direction it wants to take to proceed with the project, he said.

According to Burt, the club has several options. It could try and move the proposed fields to avoid the PSHN easement, sell the property or keep the property and accept the restrictions.

He stressed, however, that many parents are not supportive of allowing their kids to play soccer underneath power lines. It is still the club's priority to provide additional fields for the children of Derry, he said, adding the group is still raising money for the project.

The ultimate goal was to eventually combine the Rider Field sports facility and the pro-

posed soccer complex into one large recreational area. A series of fundraising efforts have already begun to raise money for the fields, including a scratch ticket fund-raiser and the sale of advertising signs.

Eric Bodenrader, director of Derry's Parks and Recreation Department, has been very supportive of the proposed soccer fields. He described the current problem as a "minor setback."

"I'm hoping this will fly eventually," he said of the two fields. Many non-profit organizations are facing tough economic times right now, he said, adding it is important for the town to

work with these organizations to combine resources for the greater good of the community.

The fields, if they are eventually built, will be a win-win situation for all of the athletic organizations in Derry since they will alleviate activity on other fields and open them up for additional playing time, Bodenrader said.

The Derry Soccer Club already spent \$145,000 to purchase the land for the fields, and anticipated applying for grants to help with the construction costs. Construction of the fields was expected to begin this fall.

Support staff looks ahead in Hampstead

◆ Recount shows their contract still failed.

By VALERIE D. HERSHFIELD
Union Leader Correspondent

HAMPSTEAD — Members of the Hampstead Association of School Staff were disappointed Tuesday when a recount showed their four-year contract failed by 41 votes, a difference of only two votes less than the results announced after last Tuesday's election.

The union represents secretaries, educational assistants,

computer technicians, librarians and other paraprofessionals working for the school district, said Nancy Lacasse, HAAS vice president and one of the negotiators.

The board of recount, which included the school moderator, town clerk and three school board members, found 75 ballots without any votes in the union article section that was printed on the second side of the school ballot.

Of those, 49 had none of the six articles on the second side marked.

"I don't know if they didn't realize there was a page two or they just chose not to (vote on those articles)," said Lacasse. She said people had expressed congratulations for the contract passing, thinking it was part of the teachers' contract that was finally approved its third time out.

The other articles on the back page passed or failed by such wide margins, the lack of votes didn't affect them.

"We are going to move forward now," Lacasse said. "Because we are a collective

bargaining unit, we have to be either negotiating or have a contract." The current contract will expire June 30.

"I'm not surprised that the recount didn't change anything," said Martha Pond, the school board negotiating member. "But I am disappointed the contract didn't pass. We'll just have to head back and try again."

Renegotiations can begin after the school board meets next week and picks a representative member to send to the table.

ht. The last ballot cast until about 9:15 a.m. and ballot counting did not until 1:30 a.m. But prompted the agenda was a letter to the selectmen three supervisors of checklist expressing concerns about some specific that took place during on Day.

Brightest Heaven Theatre Company celebrates its 5th season with "Hamlet," Shakespeare Goes Gothic, at the Adams Memorial Opera House in Derry Thursday, March 25 through Saturday, March 27. At left, Benjamin Gilde, 16, of Manchester plays Claudius and Ariel.

Not much hope for firefighters contract

In Londonderry:

Voters Saturday said no to fewer hours and more pay for firefighters.

By DAVID LAZAR

Union Leader Correspondent

LONDONDERRY — Still licking their wounds from last Saturday's razor-thin loss at town meeting, Londonderry firefighters yesterday didn't hold out much hope a new contract could be settled by the time their current one expires July 1.

The question: whether they

► See **Firefighters**, Page B2

Police: Customer helped bust heroin dealer in Derry

By KIMBERLY HOUGHTON

Union Leader Correspondent

DERRY — An alleged drug dealer is being held on \$50,000 cash bail after police used one of his customers to help catch the dealer selling heroin.

Gary Johnson, 29, of 109 Chases Grove Road, is being charged with a felony count of selling a controlled drug for the incident, which occurred last Thursday in the parking lot of the downtown Cumberland Farms.

Police recently received an

► See **Firefighters**, Page B2

or town councilors will show any signs of wiggle room, now that voters have sent them back to the bargaining table.

"Unless something drastically changes, I can't see it happening," firefighter Mike Roberts said yesterday of a quick settlement. "We've been in this situation before, and it's dragged out. The image is portrayed that we just go back and negotiate, but the reality is their lawyer talks to our lawyer and the same mediator is brought in as before. ... We're going to go a year without a

► See **Firefighters**, Page B2

anonymous tip that Johnson has been traveling to Lawrence, Mass., to purchase large quantities of heroin, and two informants obtained the same information and passed it on to police that he purchased drugs from Johnson on previous occasions, and agreed to setting up a controlled drug transaction with Johnson under police supervision.

The Derry Police Department, in conjunction with the New Hampshire Attorney General's Drug Task Force, provided the unidentified individual, who police have not identified, Johnson was alleged

► See **Heroin**, Page B2

3/16/04

Leighninger releases controversial contract



► **AG**: A judge would have to rule on legality of meeting where contract was changed and could rule it invalid.

By JANINE E. GILBERTSON

Union Leader Correspondent

SALEM — Town Manager Marcia Leighninger yesterday released copies of the new contract she signed last Thursday

► See **Election**, Page B2

Also at issue is whether the board can require a majority plus one vote to fire the town manager.

State law says a town manager can be terminated by a majority vote of the board of selectmen. Associate Attorney General Dan Mullen said yesterday he is not aware of any language or provision in the law that would

► See **Contract**, Page B2

Legend in Concord

The music of classic rock legend David Crosby and long-lost son James Raymond will ring out in a March 18 concert at the Capitol Center for the Arts in Concord.

► **Thursday/NH Weekend**

Tourney Time

Class L High School basketball tournaments continue around the Granite State, and we're there to provide play-by-play action and photos.

► **Sports**

Big Time

Stephanie Birkitt, a native of Plymouth, is now an assistant to David Lettermen and is regularly featured on *Air with him*. We'll profile her life and times.

► **Sunday**

Big Bugs

Sy Montgomery knows all about tarantulas and other critters. Find out more about this Hancock resident in Rosemary Conroy's *Natural Selections* column.

► **Sunday**

Golfers Get Ready

We're getting closer to another golf season, so golfers will want to take advantage of Jon Ebert's tips on how to improve their game.

► **Friday/Get Out!**

Up

in The Union Leader and NH Sunday News

their bank, then to police and, Investigators determined

able at the library or by phoning 476-8695.

Salem selectmen seek to overrule voters

3/13/04

Residents of Salem, N.H., voted Tuesday for change on the Board of Selectmen.

But three members of that board and the town manager didn't like the result. So in a secret meeting Thursday, they attempted to tie the hands of the new Board of Selectmen by changing the terms of the Town Manager Marcia Leighninger's contract.

All residents of Salem, regardless of how they voted in Tuesday's election, should object to this abuse of authority by their leaders. Local government exists for the benefit of the public. Its actions should be transparent to the people. Government should not turned into a private club for the benefit of its members.

But that's exactly what Leighninger, former selectman James Holland, Selectman Stephanie Micklon and Selectman Phil Smith did this week. They made government serve their interests, thwarted the voters' expressed will, and made certain Leighninger will be well paid if their plans go awry.

This isn't democratic government by any stretch of the imagination. It is the rule of an elite few who falsely believe they know better than everyone else.

Leighninger has been a controversial town manager since her hiring last June. She has refused to release a copy of either her old or new contracts to the public. It is this public that pays every dime of her salary.

Salem voters elected a Leighninger critic, Ronald Belanger, to replace Holland, the town manager's chief ally on the Board of Selectmen. The margin wasn't even close: 56-43 percent.

Under New Hampshire law, newly elected town officials are sworn in on the Friday following the election. Officials once had been sworn in immediately after elections. But the law was changed to prevent controversy in the event of recounts.

Fearing that the new Board of Selectmen would be a threat to Leighninger's position as town manager, Holland, Micklon and Smith twisted that law in an attempt to lock their friend into her post.

Just hours after he was voted out of office, Holland called an emergency meeting of the selectmen. The board met in secret session Thursday afternoon. After heated debate, raised voices heard by those banished to the halls, the board voted to change Leighninger's contract to make it more difficult and costly to fire her. Holland, Smith and Micklon voted in favor of the changes. Everett McBride voted against and Richard Gregory abstained. Leighninger accepted the deal before Holland was replaced by Belanger.

It now will take a four-vote supermajority on the five-person board to fire Leighninger. A simple, three-vote majority had been the standard. And if she is fired, she must be paid the remaining balance on her three-year contract, or about 27 months as of today. Her previous contract called for six months of severance.

The last-minute, sweetheart deal by a lame-duck board for a favored employee is unethical, if not illegal. The state attorney general should look closely at what transpired in Salem this week to determine if laws were broken.

Either way, Leighninger and her friends on the Board of Selectmen have thrown away whatever shreds of credibility they still had. The people of Salem cannot trust them and should not tolerate this abhorrent abuse of power.

Merrimack women win basketball tourney opener

The Dagger

3/13/04

Pulitzer Prize winner in 1988 and 2003

Town manager's new contract cut in secret

Leighninger would get \$198K if she is fired

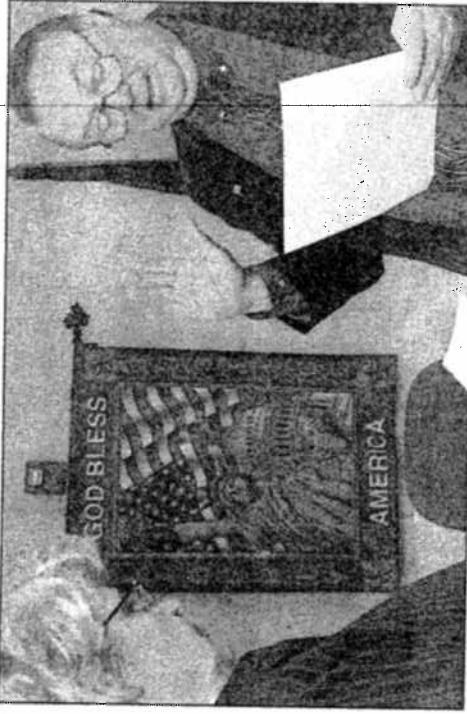
BY JAMES A. KIMBLE
STAFF WRITER

SALEM, N.H. — Town Manager Marcia Leighninger signed a contract yesterday that would make it harder for the new Board of Selectmen to fire her, paying her about \$198,333 if she were let go today. Selectmen agreed the town would buy out

the remainder of her three-year contract if she were fired for a reason other than "just cause," and only a four-member majority of the board could terminate her, according to Selectman Richard Gregory.

Leighninger refused to provide Selectman Ronald Belanger with a copy of the contract. Please see SALEM, Page 2

CARL RUSSO/Staff photo
New Salem, N.H., selectman Ron Belanger is sworn in by Salem's Town Clerk, Barbara Lessard yesterday. The new selectman is upset he didn't get to see town manager Marcia Leighninger's contract.



Finding new friends

► Super Bowl riots

SALEM: Town cuts secret deal for Leighninger

■ *Continued from Page 1*

minutes after he was sworn into office yesterday afternoon by Town Clerk Barbara Lessard in her downstairs office at Town Hall.

"I should have a right to know what was signed," Belanger said.

Belanger and Gregory question the legality of a nonpublic meeting Thursday where the board discussed the contract. They believe the revised agreement crafted by a majority of the board is invalid.

Belanger said yesterday he may ask the state attorney general's office to look into the matter early next week.

Former board Chairman James E. Holland Jr. — who relinquished his seat yesterday after losing Tuesday's town election — said he called Thursday's meeting over concerns about Leighninger's future.

"I'm concerned about the manager, but I'm concerned about a lot of employees," Holland said during a telephone interview last night.

He refused to talk about Thursday's discussions and said he supports Leighninger's decision not to release a copy of her contract even though he believes it's a public document.

"I personally believe she's under attack and needs to follow guidance of her attorney," Holland said. "This has been an attack for almost a year. It's been about what Mr. Gregory thinks of Ms. Leighninger. I think he has crossed the line and should be investigated for criminal defamation. I was hoping to shake hands and walk away from this."

"I was concerned about employ-



Marcia Leighninger



MARK LORENZ/Staff photo

Ronald Belanger listens to James Holland during a candidate forum at the Salem Senior Center prior to Tuesday's election. Holland said he was concerned about Leighninger's job security. Holland was not re-elected, losing to Belanger.

ee situations in general," Holland added. "Dave Owens (a former town manager) was terminated in a moment's notice. They could say he left on his own, but all these town managers say they can leave on their own. I know selectmen put pressure on a town manager to do what they want or they fire them."

Holland said his concerns about Leighninger's job security were prompted by rumors around town that suggested the manager was about to be fired.

Those rumors, detailed in the minutes to Thursday's meeting, include that:

■ **Leighninger** would have been led out of Town Hall by the police department.

■ **Former Town Manager Jeffrey Towne** would be the interim town manager. Towne left Salem last spring for a consulting job.

■ **Fire Chief Arthur Barnes**, who serves as interim town manager in Leighninger's absence, had to speak to Gregory about "inflammatory remarks" about firing Leighninger for "being incompetent."

Gregory, who described the rumors as "totally insane," summa-

rized what selectmen discussed during Thursday's meeting once Leighninger agreed to release minutes of the proceedings. He refused to release a proposal of the contract.

The minutes show Selectmen Phil Smith, Stephanie Micklon and Holland agreed to accept changes to Leighninger's contract.

During the meeting, Smith said he was tired of the "revolving door" of managers at town hall, and added, "we need to protect whoever the town manager is," the minutes show.

Selectman Everett McBride opposed the changes to the contract, and Gregory abstained from voting. Gregory said yesterday he refused to participate because he believes the procedure in calling for the meeting was "faulty."

"I'm contending they didn't follow the Right To Know law. My understanding is you need to put a notice up for a public meeting, open a public meeting, and then vote to go into a nonpublic meeting," he said.

Instead, Micklon, the last selectman to enter the room, closed the door to the conference room and a vote was taken to move into non-public session behind closed

doors, Gregory said.

"You have to have the door open," he said.

Leighninger — who has been on the job for eight months and earns \$85,000 a year — was putting the final touches on documents in preparation of Town Meeting today and refused to confirm she signed the contract.

Both Belanger and Gregory said Leighninger confirmed to them personally that the new contract was signed. Belanger said he was told by Leighninger she couldn't provide him a copy of the contract because it was being reviewed by a town lawyer.

"I doubt it's a legally binding contract," Belanger said. "My feeling is when (the offer) came up she should have turned it down. The prior board of selectmen needed to work in the best interest of the town. In all my 20 years in elected office, this is the worst I've ever seen it."

Peter Caruso Sr., a lawyer for The Eagle-Tribune, demanded Leighninger provide a copy of her contract. Leighninger responded by a faxed letter yesterday acknowledging the request.

"A more complete response will be provided within 10 days once we ascertain what documents, if any, are discoverable," Leighninger wrote.

Caruso warned in his letter to her that if she didn't produce the document, the newspaper would file a lawsuit on the matter. Selectmen are scheduled to meet again this morning at 8:45 a.m. before the annual Town Meeting in the Salem High School gymnasium.

Holland said he will not attend Town Meeting this year, and plans to not run for re-election in the fall for his state representative seat. He said he stands by his decision to hold Thursday's meeting, and wouldn't rule out another run for selectman next March when seats for McBride and Smith are open.

"For now I just need to move on and find something else," he said. "I lost my opportunity to vote on the board but I haven't lost my voice."

THE LOTTERY

MASSACHUSETTS

Daily Lottery

March 12 5842

Payoffs/exact order

All 4 digits \$3,893

LOTTERY

11

\$25,000

'Kan Do Kid'

Andover
Native
director
directs
videos
for Hollywood's
hottest

Lifestyle, Page 14

Conviction clouds Stewart's stake in her company Biz North, Page 21



NEW HAMPSHIRE
TUESDAY
March 9, 2004
• • •
32 PAGES 50 CENTS

The Dagger Tribune

Pulitzer Prize winner in 1988 and 2003

Salem could give conservationists added powers

By JASON B. GROSKY
STAFF WRITER

SALEM — Even with today's ballot questions still to be settled, Salem is looking ahead to Saturday when voters will decide 15 warrant articles not on today's ballot.

Giving town land to the Housing Authority, rebuilding worn streets, designing plans for a new North Salem fire station and buying a

new ambulance will be among the topics voted on at the deliberative session, which starts at 9 a.m. in the Salem High School media center. Salem's charter stipulates that voters on election day choose town officials and decide matters including the operating budget, loan arti-

cles, adoption or revision of optional state laws, union contracts, zoning proposals or charter changes. Everything else — such as selling town land, or buying a new ambulance — is voted on in a "final deliberative session" on the Saturday following election day.

Among the warrant articles is a proposal that would give the Conservation Commission full control over all land use-change tax money. The current use program gives substantial tax breaks to owners of 10-plus acres of agricultural land, but upon developing the land, the

owner must pay the community a tax equal to 10 percent of the property's value — or \$20,000 for a parcel worth \$200,000. The added revenue would allow the commission to better manage

Please see **SALEM**, Page 2

SALEM: Conservationists could gain added power

■ *Continued from Page 1*

and watch over the 600 acres worth of conservation easements it controls, member William R. Valentine said. It would also give the commission money to buy additional conservation easements, which prohibit landowners from developing certain tracts of land for perpetuity.

"Each year, we should be inspecting the easements," Valentine said. "We have a lot of easements as it is and we probably have to hire a company to manage the easements for us."

Landowners could be violating the terms of a conservation easement right now and the Conservation Commission may be unaware of it because the commission is unable to keep a close watch on the property it controls, he said. Under the easement terms, some landowners are allowed to continue using their property for agricultural purposes, whether it is growing Christmas trees, logging or farming.

Under the present system, the Conservation Commission and town split the current-use money 50-50. The commission's share is

THE LOTTERY

MASSACHUSETTS

Daily Lottery

March 8	...1117
Payoffs/exact order	
All 4 digits	\$.3,516
First or last 3 digits	\$.492
Any 2 digits	\$.42
Any 1 digits	\$.4
Payoffs/any order	
All 4 digits	\$.879
First 3 digits	\$.492
Last 3 digits	\$.164
Previous numbers	
March 7	8310
	March 4
	7250

UP NEXT, DELIBERATIVE SESSION

What: Final deliberative session

When: Saturday at 9 a.m.

Where: Salem High School media center

What's happening there? Voters will consider 15 zoning articles and these warrant articles not being decided at the polls today:

\$51,263 to give a 2.6 percent raise to nonunion town employees.

\$14,706 to give a 2.5 percent raise to Kelley Library workers.

\$400,000 to create a fund that would pay for contract buyouts.

\$498,476 for winter weather operations such as snowplowing.

\$1,516,330 for the roadway improvement program.

\$147,022 for the unpaved road program.

\$300,000 for sewer system improvements.

\$110,252 to design plans and bid specifications for the proposed North Salem fire station at North Main Street and Arlington Pond Court.

\$238,270 for a reserve ambulance; the last one was purchased in 1996.

\$500 for the Rockingham County Adult Tutorial Program.

\$500 for the Sonshine Soup Kitchen in Derry.

Give all revenue from the land use-change tax to the Conservation Commission.

Sell land off Elizabeth Lane – eyed for the Route 111 bypass – to the state for \$129,000.

Sell 2.9 acres off Freedom Drive to the Housing Authority for \$1. The land is eyed for affordable elderly housing.

Remove a deed restriction from former town land off Glen Road.

capped at \$100,000, and any money the town makes goes directly into its general fund.

Last year, the commission and town evenly split \$54,000 in land use-change money. The total split in 2002 was \$98,250 and \$172,650 in 2001.

The commission planned on asking voters to support a \$5 million loan that would allow the town to compete with developers for prime land. But with no support from selectmen, the commission rescinded its proposed warrant article. Jones said the commission's attempt to get more current-use money and

the nixed \$5 million loan request have nothing to do with one another.

"The message people need to understand is the (current-use tax) money is not going to be a replacement for the bond issue," Jones said. "The fact of the matter is, land is just too doggone expensive in Salem to serve that purpose, but there are a lot of other costs out there associated with acquiring open space and managing our open space."

The Conservation Commission has used current-use money over the years to buy or maintain: an

easement running along the south side of Veterans Memorial Parkway; 5 acres off Zion Hill Road; 23 acres on Budron Avenue from Granite State Baptist Church; 32 acres near Wal-Mart; and 63 acres along Captain's Village off Town Farm Road. Money has also been used to survey a 50-acre land gift on Pelham Road and the entire Town Forest off Route 111.

The money also paid for the pedestrian bridge built at the forest and the continued lease of the forest parking lot, owned by the state Department of Transportation.

Town Planning Director Ross A. Moldoff said many other New Hampshire communities give all of their current-use money to a conservation commission, rather than using the funds to supplement the town budget.

Conservationists could use the money for several purposes, he said, pointing out that even free land gifts are not ultimately free.

"Even when land is donated to the town, the town incurs expenses for legal fees and surveying and other costs," Moldoff said.

Jones said the current use law was designed to encourage people to not develop their property. Any tax money generated from that program should go directly toward buying or protecting open space, not padding the town's wallet, he said.

"It's using dollars based on one philosophy to maintain that philosophy in a different fashion," Jones said. "The whole concept was to maintain open space. This is just continuing that same philosophy."

INVASION: Naturalists aim to ... 1

Holland responds: 'My hands are clean'

Gregory part of group that sent unsigned attack fliers to voters

By JASON B. GROSKY AND MARGOT LE SAGE
STAFF WRITERS

SALEM — Thousands of residents opened their mailboxes Saturday to find a flier attacking the track record of Selectmen Chairman James E. Holland Jr. and encouraging them to support "a change for Salem" at the polls Tuesday.

Holland's campaign immediately cried foul and called the mailing dirty politics.

His opponent, former Selectman Ronald J. Belanger, said he had nothing to do with the flier.

But Selectman Richard R. Gregory, who has often battled with Holland, acknowledged he is a part of the Citizens for a Better Salem group that sent out the mailer.

The flier has kicked up this sometimes-contentious campaign. Some people view tomorrow's election as Salem's ultimate power struggle since this one seat could be a swing vote on the five-member Board of Selectmen.

Holland, 49, decided to use part of yesterday's previously scheduled meet-and-greet forum to answer the charges in the flier. His brief statement was videotaped and is expected to air tonight on community access television.

"There has been a mailing by the Citizens for a Better Salem which questions my integrity and I ask your indulgence while I respond to that mailer," Holland said, speaking to voters through the taping and talking about the apparently well-financed mystery group. "Common sense dictates that you don't spend that amount of money attempting to buy an election unless there is the promise of payback."

Holland continued seeking voters' support, noting that "my hands are clean" while saying the mailing is "frustrating, at best because they know you have no time to respond."

Gregory said the committee — comprising more than 10 unnamed members — sent the mailing to more than 3,000 voters, each carrying a 37-cent stamp. He said the contents of the flier are accurate and that the mailing

"Common sense dictates that you don't spend that amount of money attempting to buy an election unless there is the promise of payback."

Selectman James E. Holland Jr., on fliers sent by Citizens for a Better Salem

■ *Continued from Page 8*

infighting and dissension, which my opponent is claiming."

Christopher B. Goodnow, a commercial real estate consultant and school district moderator, also acknowledged his involvement in Citizens for a Better Salem. He said the flier was created to give voters "all of the answers" — that while Holland's supporters have spoken out against new apartments and residential construction, a check of the chairman's record shows he has voted otherwise.

"I encourage everyone to investigate those facts and to authenticate them as we did because, at the end of the day, they are irrefutable facts," Goodnow said.

Apartment votes: That he was the only Planning Board member to vote for an 80-unit apartment complex in November and again was alone when he voted in January to rezone land that would allow for up to 42 more apartments.

Siding with Micklon: From March 2003 through January, Holland voted with fellow Selectman Stephanie K. Micklon "98 percent of the time."

Answering the claims, Holland said the facts are out of context. The lawsuit stemmed from a neighbor who sought to overturn the variance granted to Holland by the Zoning Board of Adjustment, he said. About his voting record with Micklon, Holland said he is an independent voice and has voted with fellow Selectman Everett P. McBride Jr. "99 percent of the time" since mid-September.

"That doesn't sound like the 32 board you've been told exists," Holland said. "That doesn't sound like

constitutes clean politics.

Belanger's name is not listed on the flier, which features a cartoon of a police officer with the phrase: "The facts ma'am. Just the facts!" written in a bubble above his head. The flier made these claims about Holland:

Lawsuit costs: His attempts to develop land in North Salem have cost the town more than \$20,000 in legal fees. The flier also called him a "residential developer" since he received a variance from the Zoning Board of Adjustment to "build a house on three undersized lots."

Apartment votes: That he was the only Planning Board member to vote for an 80-unit apartment complex in November and again was alone when he voted in January to rezone land that would allow for up to 42 more apartments.

Siding with Micklon: From March 2003 through January, Holland voted with fellow Selectman Stephanie K. Micklon "98 percent of the time."

Budget Committeeerman Stephen F. Campbell — a Holland supporter — called Saturday's receipt of the mailing "the worst day in Salem politics." He chastised the Citizens for a Better Salem for not naming themselves in the flier.

"I never liked secret groups," he said. Fellow Budget Committeeerman Earl Merrow called it "the lowest I've seen it go." Micklon, who ousted Belanger from the Board of Selectmen in March 2003, called the flier

"gutter politics."

Gregory said the flier did not name the committee's members, nor list an address for the group because New Hampshire law does not require it to do so. He said the group's members put up their own money to fund the effort, though he was uncertain how much money has been raised and spent.

A group of Salem residents joined together and formed a committee with a number of aims," Goodnow said. "One of them was to bring to light the difference between rhetoric and reality."

Belanger said he has nothing to do with the citizens group and that he had no involvement in the mailing. Like others, he said he first saw it Saturday when it arrived in his mailbox.

"My name is not on it, I am not endorsed on it," said Belanger, 64. "I do not know who they are, but I never say 'no' to a supporter.... I have my supporters and Jim Holland has his supporters."

Belanger said he has taken his campaign "door to door" and criticized Holland for using community access television to pump up his campaign.

Budget Committeeerman Kathleen Cote, a Holland supporter, said the timing leaves the campaign no choice but to use the airwaves.

Holland said he has run a "clean campaign" and accused the citizens group of being run by "real estate mavens."

Town finds common ground on wetlands, senior housing

BY JASON B. GROSKY
STAFF WRITER

SALEM, N.H. — A wetlands dispute that threatened plans to build affordable housing on

Engineering technician Joseph Chamberlain, right, during a tour of the wetlands behind the senior housing off of Telfer Circle. Listening in the background are, from left, Housing Authority Executive Director Diane Kierstead, Housing Authority member Georgette Smith, Conservation Commissioner William Valentine and Housing Authority Chairman George Mallois.



ity are pledging support for one another.

The Conservation Commission now voices support for the Housing Authority's plans to build about 30 units of affordable housing off Freedom Drive, while the housing agency has dropped its opposition to a zoning ordinance that would tighten building restrictions near a neighborhood prime wetland.

Both proposals go before voters Tuesday.

"There is a way to do something out there and it's a win-win," said Jeffrey C. Orchard, an environmental consultant who studied the site for the Housing Authority. "You get to protect the wetlands" and still build more senior housing next to the

Please see **SAIFM** Page 2

Please see SALEM, Page 2

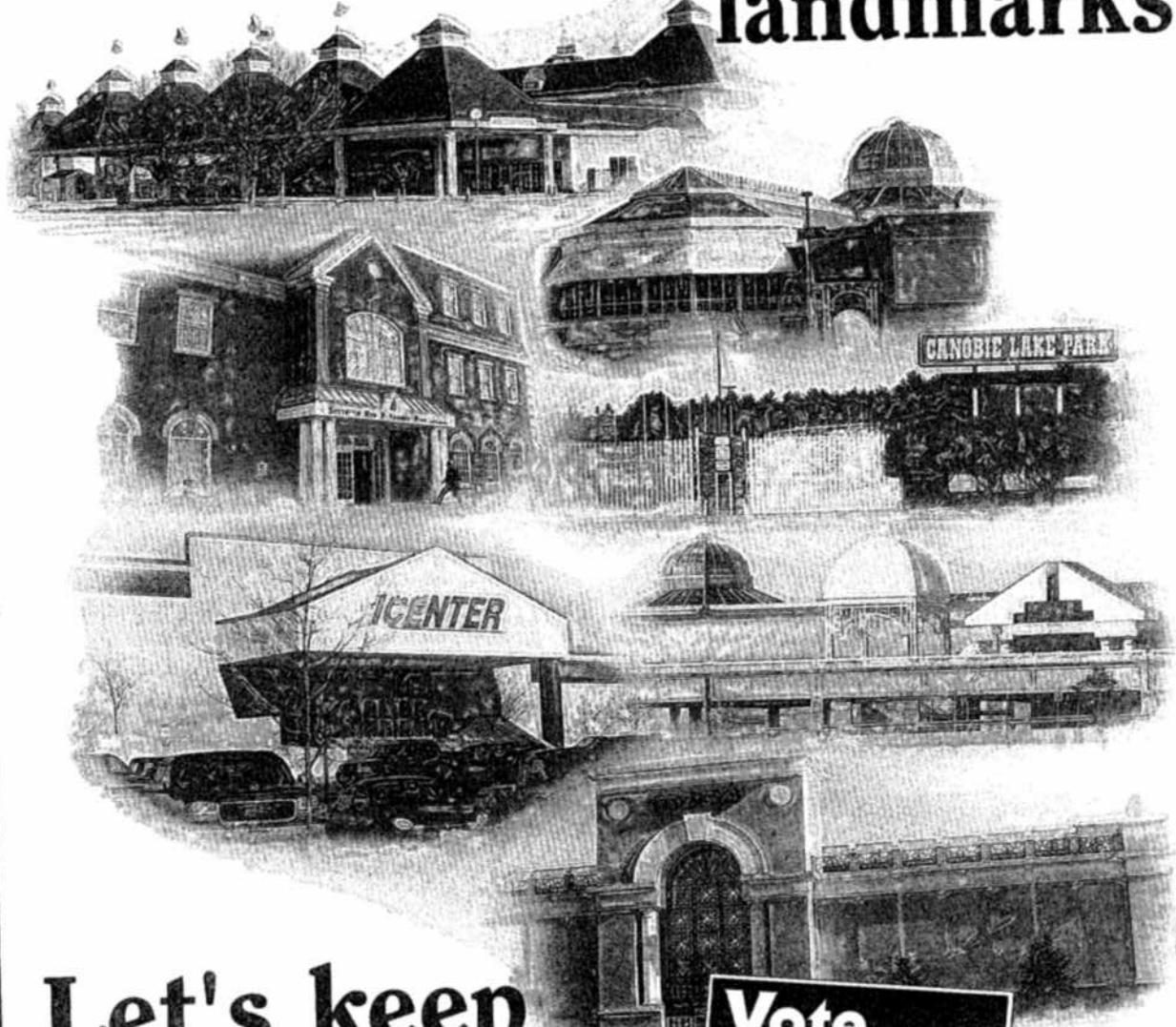
is Article 42 on the ballot. With Ordinard's recommendation that the site is safe, Jones and several other Conservation Commission members are vocal in their support for the senior house.

The Housing Authority is supporting the
mailing of letters to its supporters
encouraging them to vote
against the zoning ordinance
Article 17 — the Posts-Treasers
districts the zoning ordinance
Wednesday, both sides acknowledged
that the proposed Senate
bill enough from the ground
and far enough to be safe
wetlands. The Housing Authority
then rescinded its opposition
to the zoning changes, and is now
asking voters to support it.

Continued from Page 1 ■

• Vote No On Article 5 •

Special exemptions create landmarks.



Let's keep what works for Salem!

Vote No! TOWN ARTICLE # **5**

Signed:
Edward M. Callahan
Five Timothy Lane
Salem, NH

Fiscal Agent:
George J. Khouri
Seven Longwood Road
Salem, NH

• Vote No On Article 5 •

Vote No On Article 5 • Vote No On Article 5 • Vote No On Article 5 • Vote No On Article 5 •

Vote No On Article 5 • Vote No On Article 5 • Vote No On Article 5 • Vote No On Article 5 •

► Salem 3/2/04

Business fights zoning changes

By JAMES A. KIMBLE
STAFF WRITER

SALEM — Faced with the prospect of rebuilding one of the most valuable parcels of property in town, managers at Rockingham Park want to take no chances in keeping their options open.

That's why park officials and several other businesses are trying to make it tougher for the town to pass a zoning change going before voters March 9 that some believe would prohibit buildings such as the Icenter or some of the taller rides at Canobie Lake Park if they were proposed today.

Selectmen want to eliminate Salem's special exception rule, which lets town planners waive regulations such as height restrictions for building projects or to approve placement of a business in a residential section of town. Their proposal is Question 5 on the town ballot.

It is opposed by dozens of people who signed a petition on file at Town Hall and who represent owners of nearly 400 acres of commercially zoned property in Salem.

Their petition, if found authentic by town Assessor Norm Pelletier, would require two-thirds of Salem's voters to approve the selectmen's proposal — a much more difficult task than winning a simple majority. State law allows residents to bring a petition against such a zoning change by collecting signatures from 20 percent of commercial landowners. In years past, residents have filed petitions

Please see SALEM, Page 2

SPECIAL EXCEPTIONS OVER THE YEARS:

PROJECT	WAIVER FOR
Center	Building in residential zone
Rockingham Park	Building height
Mall at Rockingham Park	Building height
Canobie Lake Park	Height of roller coaster, StarBlaster ride

SALEM: Businesses fight proposed zoning change

■ *Continued from Page 1*

protesting the town's wetlands ordinance.

Special exceptions were developed in Salem in the early 1960s to inspire commercial growth when the town was experiencing its first population boom.

"The population was about 9,000 people then, but by 1970 there was about 20,000 residents," said Salem Planning Director Ross Moldoff. "Post-World War II, in the '50s and '60s, places like this were growing like wild and were dying for commercial development because all these residential homes were being built."

Moldoff, a majority of selectmen believe the special exception rule has run its course, and now only allows projects most townspeople do not like. A recent example, they said, is a 112-unit apartment project now under construction along Route 28 next to Wal-Mart. Developers successfully argued to build the residential complex in a commercially zoned area.

Opponents of the zoning change said the apartments near Wal-Mart may be the only project worth citing as an example.

"It's brought some very good projects to town that could only be accomplished with a special exception," said Ed Callahan, general manager and vice president at Rockingham Park. "When we rebuilt in 1984, we were in essence a six-story building. That could've only been accomplished with a special exception at this facility."

The Center, Canobie Lake Park, Southern New Hampshire Bank and the Mall at Rockingham Park have all tapped the special exception rule over the years to either build their facilities outside of a commercial zone or get around building height restrictions.

Town officials argue those projects could still be allowed in town if appealed to the Zoning Board of Adjustment for a variance — another rule that allows exceptions

for landowners when they can show a hardship in developing their property.

Selectmen Chairman James Holland said the special exception rule does very little to benefit the community at large.

"Very rarely do you see a resident who needs a deck on the back of their place use a special exception," Holland said. "All those things can be done through the Board of Adjustment with the variance process."

Moldoff noted that a majority of variances are approved by the zoning board: in 2003, the board approved 98 percent of all requests; in 2002, the board approved 92 percent; and 84 percent of requests were approved in 2001.

Selectman Richard Gregory is the sole opponent to the zoning change. He believes certain property owners won't be able to use the variance process to get the exceptions they need unless voters approve other zoning proposals this year meant to tweak the town's ordinances.

Large commercial property owners such as Rockingham Park have nothing to worry about because selectmen and Planning Board members have repeatedly said they are willing to work together with park management to redevelop the property, according to Moldoff.

But Callahan balked at that, recalling a proposal made by selectmen last year to rezone the race track soon after "the Rock" announced plans to close its doors following the 2005 race season for some other commercial enterprise.

Callahan filed a protest petition last year against that proposal as well, and voters didn't pass the measure.

"We tried to be very honest and upfront with them and as soon as we tried to work with them, they tried to change the zoning," Callahan said. "I don't look at that as trying to be upfront."

Businesses protest selectmen amendment

BY ERIC BAXTER

News Editor

Several businesses have lodged a protest petition against a zoning amendment, Article 5 on the March 9 ballot, claiming the article, if passed, will take away a valuable development tool that has been used to the town's advantage.

Board of Selectmen Chairman James Holland, who helped push through the article earlier this year, said the town would be better off abolishing the amendment at the polls and later starting fresh.

However, after the selectmen's amendment was passed on a 4-1 vote it clashed with a similar measure passed the next night by mem-

bers of the planning board. After consideration, the planning board pulled its amendment saying there was no need to have two dueling amendments on the ballot, jeopardizing the passage of both.

The protest petition ups the necessary vote from a simple 50 percent majority to a two-thirds, or 66 percent, majority giving the

selectmen's measure a good chance of being defeated.

"I have been anticipating this would happen," said Holland of the petition protest.

The special exception clause, which Article 5 seeks to abolish, was a planning tool developed in the 1960s to attract businesses to the then residence-heavy Salem.

The clause allows any developer to file for a special exception allowing them to bypass many of the zoning laws when they built in commercial-industrial zoned land within the town. Businesses that have sprung up using the clause include the Mall at

Please see PROTEST page 3

Continued from page 1

Rockingham Park and the Icenter. Another business to prosper under the clause was Rockingham Park, which used the clause to allow for its reconstruction after it burned down in the 1980s.

"These are all very good projects. They pay millions in taxes to the town," said Ed Callahan, general manager and vice president of Rockingham Park.

Callahan said the planning board had worked hard in coming up with language to amend the special exception and would have supported their version.

"It was not a good idea to throw out the special exception completely," he said.

Under town law if owners of more than 20 percent of a given commercial-industrial zoned area can collectively agree to and sign a petition, they can protest a given zoning amendment for their area. The business owners on the petition hold about 400 acres of the town's commercial land, which includes Rockingham Park.

Last year a similar group, which also included Rockingham Park, filed a protest petition against proposed zoning and the measure fell just short of passing, about 63 percent of the needed 66 percent.

The town and Rockingham had been at odds for months over imposing additional zoning on

the park's 170 acres. The park declared racing would cease in 2005 and the owners would develop the land with a mix of commercial, industrial and residential plans.

The town claimed the new zoning rules would ensure the track's future development would be closely aligned with the town's master plan.

The park's owners contended the zoning amendments were too strict, gave them no recourse to the planning board's decisions and hampered them if they needed to make quick changes, such as if video gambling was legalized in the state.

With the measure defeated, Rockingham remained subject to the same zoning as other business along the Route 28 corridor.

Callahan said doing away with the special exception would

hamper many of the development opportunities to both the park and other businesses.

The selectmen argued the exception was an outdated development tool and the granting of variances, similar to special exceptions, could be handled by the zoning board of adjustment.

The selectmen's petition was brought forward in response to what are now being referred to as the "Wal-Mart apartments," a 112-unit apartment complex off Route 28. The apartments were allowed to be built in the area, zoned commercial-industrial under the special exception clause.

"The special exception was good for commercial businesses but not good for residents," said Holland. "I believe if we rewrote the exception we could craft a compromise that would benefit everyone."

her cat Elizabeth Taylor.

Voters can shorten lengthy wait for senior apartments

BY JASON B. GROSKY
STAFF WRITER

SALEM — A wait of almost four years is almost over for Barbara A. Cedrone, 68, whose name is finally at the top of "the list."

She is the envy of people like retired real estate agent Joyce J. Nolan, who finds herself at the bottom of the list and facing a wait of two to four years.

The list is made up of the 176 elderly and disabled residents who want to get into one of the 158 affordable housing units controlled by the Salem Housing Authority.

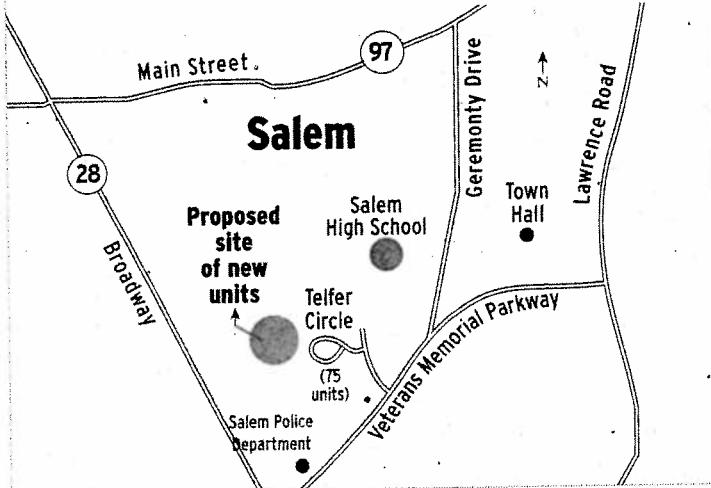
Waiting time could shrink if the authority realizes its plan to build 25 to 30 new units on town-owned land by the Telfer Circle elderly housing complex off Veterans Memorial Parkway, Executive Director Diane E. Kierstead said.

When voters head to the polls March 9, they will have a substantial say in whether the plan moves forward.

First, voters will decide whether to give away the 2.9 acres of town-owned land the

NEW AFFORDABLE HOUSING PLANNED

The Salem Housing Authority wants to built 25 to 30 units for the elderly and the disabled on 2.9 acres of town-owned land. The project would neighbor the SHA's 75-unit Telfer Circle development.



Housing Authority seeks for its project. Also at the polls, voters will decide on a zoning ordinance proposed by the Conservation Commission that would restrict how much of the land the Housing Authority could build on.

"We have a few things that still

need to be worked out, but we're ready to jump on it as soon as it goes through," Kierstead said. "We have a serious backlog of people" awaiting housing.

The Housing Authority has no

Please see HOUSING, Page 4

2/28/04

► Salem, N.H.

Major developer strikes deal to get a piece of the Rock

BY JAMES A. KIMBLE
STAFF WRITER

SALEM, N.H. — One of the top five owners of shopping centers in North America has struck a deal with Rockingham Park to re-develop the 170-acre race track.

CBL & Associates Properties Inc. — based in Chattanooga, Tenn. — will research potential developments for the property

and draw up a plan, said Ed Callahan, the park's general manager and vice president.

"The research is to determine exactly what appears to work well here," Callahan said. "It's going to depend a lot on who wants to come here, finding commercial outfits, entertainment outfits that want to come to this area."

The announcement comes two months after Rockingham re-

vealed it had parted ways in August with Eastern Development of Woburn, Mass. Callahan said yesterday it was a mutual split between the park and Eastern, but wouldn't elaborate further.

CBL owns or operates 159 shopping centers, including 60 enclosed regional malls, and is listed on the New York Stock Exchange. Its lat-

Please see DEAL, Page 2

■ *Continued from Page 1*

est venture, called the Coastal Grand in Myrtle Beach, S.C., is a 1.5 million-square-foot development scheduled to open March 17. It includes 300,000 square feet of local and national retailers and 40,000 square feet of restaurants and specialty food.

The CBL project manager assigned to analyze the property said the company specializes in mixed-use developments that include retail and commercial businesses.

"This is exciting for CBL. There are a bunch of people in our field who have always eyed this piece of property and it happened to be a timely deal for us," said CBL's Bill McCabe, who is based in the company's Waltham, Mass., office. "It's right off Exit 1 on Interstate 93 and offers a lot of opportunities."

This will be the first race track that CBL has ever worked on, McCabe said.

McCabe was hesitant to put a time frame on when the company could make some solid conclusions on developing the park.

Some of the studies now under way include traffic counts and an environmental analysis of the land. He said it is "a fairly accurate assessment" that the company won't be looking to build another mall, since the Mall at Rockingham Park is next door.

To Chris Goodnow, a commercial real estate consultant who lives in town, CBL working with Rockingham is "an extremely exciting prospect," especially if it invigorates talk of some type of downtown.

"Salem is a vibrant community but where we struggle is with the fact that we don't have a physical location where people say this is downtown Salem," said Goodnow, who laments the view by outsiders that the town is primarily made up of its retail strip on Route 28.

"The redevelopment of Rockingham Park may give the town an extraordinary opportunity to create a traditional town center which could have the affect of giving Salem a traditional face that could bring the community together," Goodnow said.

Goodnow said the national trend

for redeveloping large-scale retail property is moving away from malls.

"It's a much more fractured market now. We're seeing a slowdown in development of new large malls and an increase in a power center where you have large anchors that sit independent of each other. Think of something like the Loop (in Methuen)," he said.

Callahan said despite the change in contractors for the park, the rest of Rockingham's plan to keep racing for now is the same.

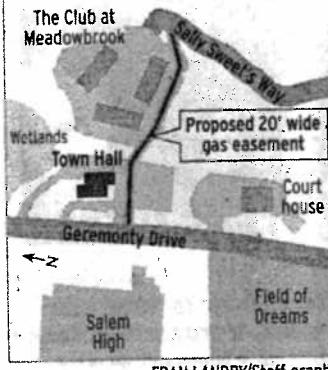
"We're anticipating to be here for the '04 and '05 racing season, and depending on how the project takes shape and we could be here in 2006... Any number of things could happen but for at least the next two years and if the project moves well, we'll be here until late '05, '06. Right now we're about a year later than originally planned," Callahan said.

VISIT OUR WEB SITE AT:
www.eagletribune.com

8 Tuesday, February 24, 2004

PROPOSED GAS EASEMENT

Salem Selectmen worry that a 20' wide gas easement could hinder future growth of Town Hall with the pipeline on one side and wetlands on the other.



FRAN LANDRY/Staff graphic

SALEM: Gas line's path may cause delay

■ *Continued from Page 1*

Last night selectmen held the first of two public hearings on the granting an easement for the pipeline. Scott said that process may have to start all over again because selectmen have asked developers to look at other possible options.

Staff writer James A. Kimble may be contacted by calling (603) 893-9555 or by e-mailing at jkimble@eagletribune.com.

Pathway may stall condos' gas line

BY JAMES A. KIMBLE

STAFF WRITER

SALEM — A gas line for a senior housing complex may be delayed because selectmen worry its path could hinder the future expansion of Salem Town Hall.

Such an expansion is probably years away, but town officials have long talked about preserving land along Geremonty Drive, also known as the town's "center district," for the purpose.

The gas line is being laid for 120 condominiums for seniors called the Club at Meadowbrook now under construction along Sally Sweet's Way. Developers are hoping to secure an easement from officials and run the pipe through the parking lot to the right of Town Hall. However, they hit their first roadblock with selectmen, after getting initial nods from the Planning Board and Conservation Commission.

"I can't vote for it where its going through the middle of the lot," said Selectman Phil Smith. "If somebody wanted to expand this building, they wouldn't be able to do what they want."

The board didn't take an official vote on the matter, but a majority of the board agreed to ask whether the pipeline could be relocated to the left of Town Hall. Selectman Everett McBride explained that moving the pipeline there would enable Town Hall to expand east, rather than possibly being blocked by the pipe.

Changing plans mid-stream may not be easy for developers Jack McBride and Robert Wilder of Commons Development, according to Community Development Director Bill Scott.

Scott said there was no estimate of how much it would cost to possibly redraw plans for the pipeline. And running the pipe to the left could be impossible because of protected wetlands to the left of Town Hall.

WE TELL THE PLANNING BOARD WE'LL DO
WHATEVER THEY WANT... WHEN WE'RE IN...
WE DO WHAT WE WANT!

DINNER



► Salem

1/22/04

Slowly,
Tribune

Route 28 receives face lift

BY JAMES A. KIMBLE
STAFF WRITER

SALEM, N.H. — The maze of back rooms and storage areas at Ski Haus would be a code enforcement officer's worst nightmare by today's building standards.

Held together by exposed plywood or bare white Sheetrock, two of the additions were built around utility poles and one sports an asphalt floor.

"This used to be a parking lot we're standing in," said Ski Haus owner Wayne Pilla. "They needed a room."

When Pilla and his brother Steven bought the building from their uncle, John Elia, in 1992, they

Please see SALEM, Page 2

SALEM: Slowly, Route 28 undergoing metamorphosis

■ Continued from Page 1

Inherited the thrown-together additions that came with the business. "It started out as a grocery store," and then an appliance store, he said. "The philosophy was (back then) it was always better to ask for forgiveness than to ask for permission (to build)." But Pilla's plan to raze the existing Ski Haus building and erect a new one this spring represents a slow-moving trend on Route 28 to either dramatically rehabilitate or replace older buildings.

Such redevelopment has been one of the top priorities for planners, and ranked second in a townwide survey done for Salem's Master Plan, said Ross Moldoff, Salem's planning director.

"I think the people want it and certainly the Planning Board wants it," Moldoff said. So far, the Planning Board has given receptive comments to the plans' conceptual design, Moldoff said. If approved, a new building could be standing by this fall.

Plans for the new building call for a second floor and nearly doubles the floor space to 24,000 square feet. Its exterior has a partially stone facade and Tudor-style roof.

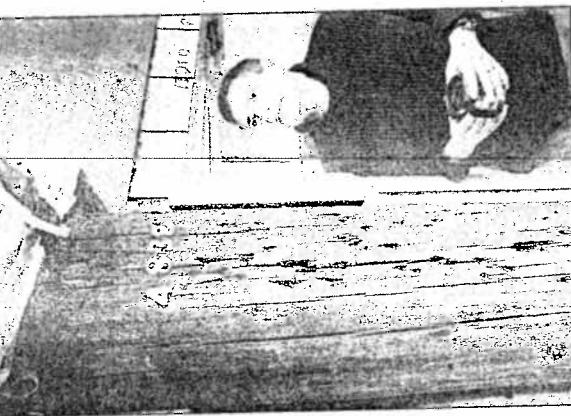
Pilla and his brother, Steven, bought

NEW BUILDINGS ON ROUTE 28

- 2003 - Banknorth/Electronic Repair Specialists
- 2002 - Babies 'R Us and Dunkin' Donuts
- 2001 - Town Fair Tire

Proposed for 2004

- World Gym (formerly Craftmania)
- Ski Haus



KEVIN YUSZKUS/Staff photo
SKI Haus owner Wayne Pilla stands next to one of two utility poles inside his business. The ski business hopes to raze its current structure and build

"Route 28 is obviously vibrant, but people see some of these properties and ask why doesn't some developer come in and buy six of these and put them all together for one development. The thing is these small lots are worth so much money, you can't put six units together and do a larger development that makes economic sense," Goodnow said, owner of Goodnow Real Estate Services in Salem. To him, rebuilding on the property was more than a business investment.

The Ski Haus property and building, for example, is assessed at \$573,700, according to town records.

Sam Zannini, Salem's chief building officer, said older buildings such as Ski Haus are slowly fading from the strip. Even in the past year, the Salem Triangle Cinema was demolished and replaced with Babes 'R Us, Electronic Repair with Babes 'R Us, Electronic Repair Specialists razed their old building for a new-story structure, he noted.

"As you go up Route 28, you still see some residential properties that are be-

ing used for tattoo parlors, or a candy shop and they're fine for that, but when it gets point that it's depleted they'll have to think of renovating or rebuilding," Zannini said.

While Ski Haus has proven itself over the years as a successful business, the Pilla's also run two others, NOTB snow-

boards, and a patio furniture business, from the same building during the off season. The family owns a second Ski Haus in Wilmington, Mass. Only about 20 percent of the new floor space will be open to the public, while the rest will be warehouse space for the patio business, which operates in the off-season, Pilla said.

To him, rebuilding on the property was more than a business investment. "I live in Salem, and I'd like to see the strip upgraded," Pilla said. "My sister lives in Pennsylvania, and when she comes up here she thinks the strip is Salem. When most people come here they don't go down the side streets or into the neighborhoods. What they see is the tattoo parlors and run down buildings."

Still, existing business have been holding on to their property, and have sparked a slow, but sure, trend to rehabilitate their properties, Goodnow said. "I think it will continue to happen but at a slow pace," he said.

However, Goodnow rebuilding or renovating property is a huge investment and doesn't guarantee their business would be a success.

"Turnover is fairly substantive (on Route 28) at times," he said.

1/15/04
Observer

THE ISSUE

Selectmen seem to believe they are the sole craftsmen of town policy and claim to be doing what's in the best interest of the town.

OUR OPINION

No matter how well-intentioned they may be, selectmen need to let the town's boards and committees do their jobs. That's in the best interest of the town.

Let boards do what they were meant to do

Elements within the town's Board of Selectmen have run roughshod over the decisions and responsibilities of the other boards and committees. And the selectmen's reasons seem to have less to do with the substance of the decisions and more to do with their belief that they are the ultimate arbiters of all town policy and the final word on "what's in the town's best interest."

The first two hours of last Tuesday night's planning board public hearing on the 2004 zoning amendments was spent on debating between dueling amendments. The first was the planning board's own long-considered amendment to the town's commercial and industrial special-exception clause. The second was a petition submitted by the members of the board of selectmen abolishing the special-exception clause.

However the issue seemed to be less about the special exception and its ultimate effectiveness and more about expressing a stance on Salem's growth.

Within the last few months a 112-unit apartment building has been under construction near Wal-Mart on Route 28 on land zoned for industrial and commercial use. The developer used the special-exception clause to get the plan passed.

The planning board, which hands down much of the policy affecting growth, became the whipping post for those railing against seemingly unchecked growth and took the blame for the apartment building, even though the zoning

board of adjustment makes decisions on special exceptions. Selectmen, who had formerly agreed to work with the planning board in stemming the growth, suddenly stopped working with the board and even criticized their efforts as not being in the best interest of the town.

When the zoning amendments came around on the political wheel and the special-exception clause was slated for change, some selectmen flew in the face of the planning board's long-considered decision.

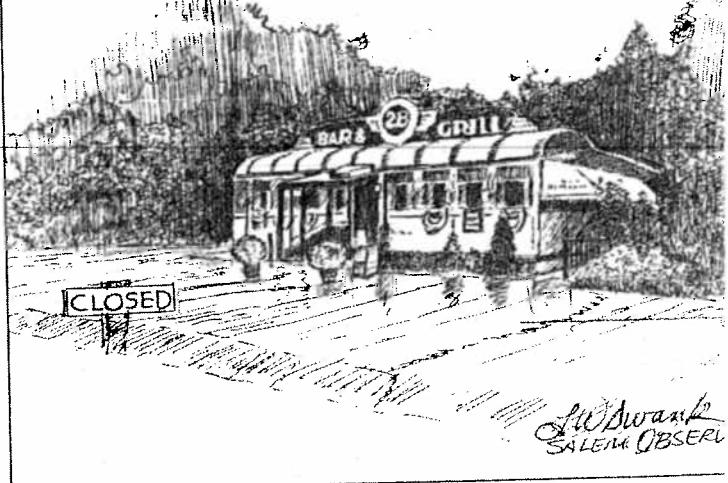
Worse still, the selectmen's decision to put their own petition into competition with the planning board's was done at the 11th hour, without discussion with planners.

Selectmen ultimately got their wish when Planning Board Chairman James Keller moved to kill his own board's recommendation at the public hearing.

The planning board's ultimate 5-2 vote to support doing away with their own amendment served the purpose of preserving several other key zoning changes that might have been lost if the selectmen's petition went on the ballot against the planning board's.

It seems to us the selectmen's victory was at a cost. Their measure passed, but at the expense of the planning board's authority. Various boards and committees have been created for a reason. When these panels don't get to do their job, their purpose is circumvented, and no matter what the issue, that's not in the best interest of the town.

OUR TOWN, LOSES... AGAIN!?



LETTERS TO THE EDITOR

E-mail to Letters@salemobserver.com. Limit 200 words. No exceptions. Deadline is 5 p.m. Monday. Include address (which will not be published) so we may reach you with any questions. We reserve the right to edit for length, co

Clark's ideas won their votes

To the Editor:

During his many years of military service, Wesley Clark had a reputation for looking out for the health care, housing, education and other needs of thousands of families under his command. My father and I are both New Hampshire veterans, and we both think it's great Clark has so many ideas for improving our nation's health care. He would fund our nation's VA hospitals and expand the budget to take care of all veterans' health care needs.

Wes Clark has a lot of general ideas about health care that are very important. Helping senior citizens pay for prescription drug benefits is one of his priorities. He has correctly said that the bill that President Bush supported does too little for America's seniors and too much to reward large drug companies. Clark has come out in favor of allowing Americans to import less expensive medications from Canada. He will cut corporate tax shelters and red tape that keep inexpensive generics from getting into the market.

Those are the kinds of ideas that will help veterans, senior citizens and our country as a whole, and that's why two generations of veterans in our family are supporting Wes Clark for our next President.

Mark Neskey
Pelham

Kerry is a proven leader

To the Editor:

The polls show Dean way ahead of the other Democratic candidates at this point. Dean is seen by some supporters and undecided voters as a

straight-shooter, a forthright candidate. However, Dean's lack of any foreign-policy and military experience would make me feel very unsure of him as president to lead us in our global war on terrorism. I don't want another inexperienced and impulsive commander-in-chief to replace our current one. John Kerry as a great presidential candidate, who has tremendous military and foreign policy experience and certainly shares my outrage over Bush's unilateral war in Iraq. Kerry will lead America again toward our position of trusted military and statesman-like leadership in the world. So, forget about the media polls.

Vote in the primary for the best and most qualified candidate for president and someone who can beat Bush. We should vote for a proven leader — Kerry.

Al Collins
Salem

Dean is in over his head

To the Editor:

Dean's recent comments on foreign affairs are disturbing and in the words of the Washington Post, "ludicrous." The post-Sept. 11 world is too dangerous a place — we cannot afford more of the shoot-from-the-hip style akin to George Bush. One flip comment from a U.S. president can send markets tumbling, turn tense situations in the Middle East into catastrophes and damage relations with allies beyond repair.

For the sake of the country and the future of the Democratic Party, we need to look more closely at the other candidates. Dean may make us feel good when he makes a speech, but the issues before us are too critical for an inexperienced governor from a small state. I've heard

that Dean was for Vermont. B president, he's over his head. I him to return to

Sincerely,
Freda Smith
Salem

Dean is to VC

To the Editor:
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5, 2004

2/15/04 Observer

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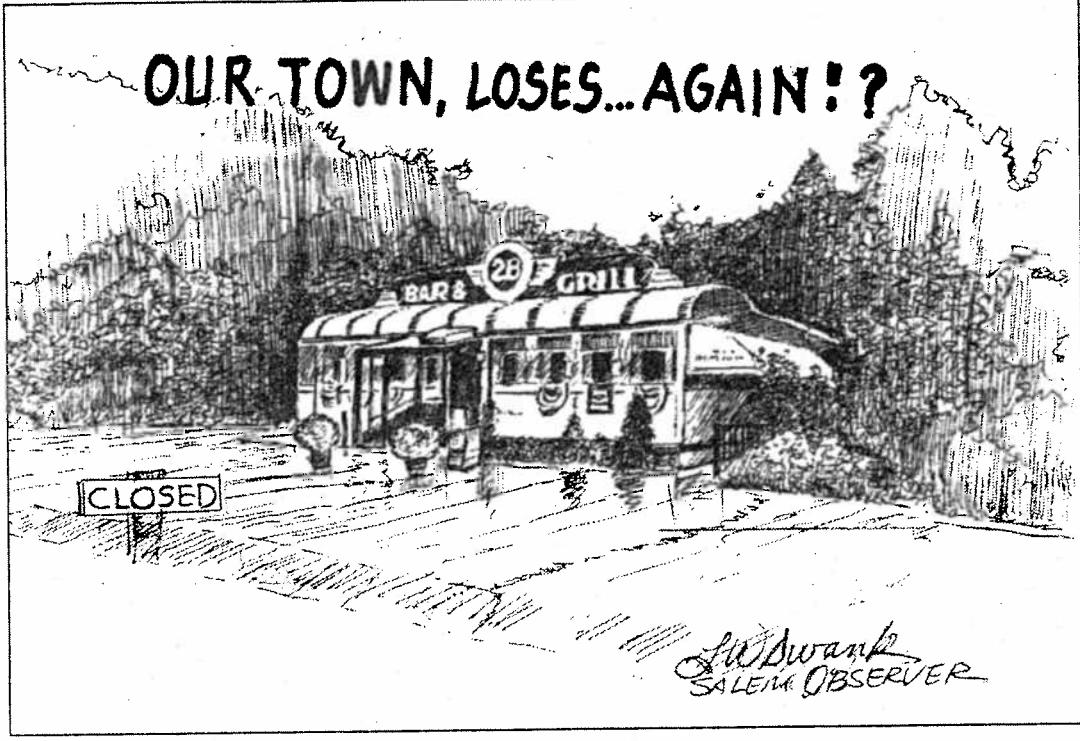
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LETTERS TO THE EDITOR

E-mail to Letters@salemobserver.com. Limit 200 words. No exceptions. Deadline is 5 p.m. Monday. Include address and phone number (which will not be published) so we may reach you with any questions. We reserve the right to edit for length, content and clarity.

Clark's ideas won their votes

To the Editor:

During his many years of military service, Wesley Clark had a reputation for looking out for the health care, housing, education and other needs of thousands of families under his command. My father and I are both New Hampshire veterans, and we both think it's great Clark has so many ideas for improving our nation's health care. He would fund our nation's VA hospitals and expand the budget to take care of all veterans' health care needs.

Wes Clark has a lot of gener-

straight-shooter, a forthright candidate. However, Dean's lack of any foreign-policy and military experience would make me feel very unsure of him as president to lead us in our global war on terrorism. I don't want another inexperienced and impulsive commander-in-chief to replace our current one. John Kerry as a great presidential candidate, who has tremendous military and foreign policy experience and certainly shares my outrage over Bush's unilateral war in Iraq. Kerry will lead America again toward our position of trusted military and statesman-like leadership in the world. So, forget about the media nolls.

that Dean was a good governor for Vermont. But in his run for president, he's proven to be in over his head. It may be time for him to return to Burlington.

Sincerely,
Freda Smith
Salem

Dean is the one to vote for

To the Editor:

I know that by this time in January, the last thing most people want to talk about is politics. The differences between all the Democratic candidates may seem a little fuzzy and indeed

Open
not ba

From previous columns it's obvious that a proponent of the purchase land is conservation committee's goals. As strong as I feel about the purchase of open space I am just as adamant in not supporting the school district's desire to buy property for the expansion of athletic fields by acquisition of ongoing debt for. Why? Because of land for playing fields. The tax burden beginning. Once land will be playing fields. To be seeded. Bleachers built. The fields have you need to make the cutting of grass and irrigation. athletic event, dependent sport, the fields their boundaries requires fundamental labor, making. This will be an official grass, the chase and instead this adds to the operating budget, mostly 60 percent.

Planner challenges colleagues' position

By JASON GROSKY
AND JAMES A. KIMBLE
STAFF WRITERS

SALEM — Whether there is a difference between the words "committee," "board" and "commission" has one town official questioning whether the Planning Board followed the law in tapping its latest alternate member.

Planning Board member Adam C. Webster wants the question answered by a town lawyer because the board's newest alternate member, Roland Theberge, serves on the Budget Committee with Planning Board member Robert Mayer. Webster cites a state law stipulating that no two Planning Board members may serve together on another town "board" or "commission." Selectmen Chairman James E. Holland Jr., a representative to the Planning Board, is blocking Webster's request, saying he is

"It's clearly political."
on Adam Webster's challenge of his Planning Board appointment



is proven his appointment was illegal.

"All we have to do is get a \$200 legal opinion," Webster said. "To me, if there's some question of whether we're breaking the law, we should be getting a legal opinion."

Theberge said he believes Webster's inquiry is just a matter of town politics, noting that Webster is the son-in-law of Selectmen Richard Gregory, a political foe of Holland.

"It's clearly political," Theberge said. "I wouldn't waste a lot of words of about it. We're waiting for a decision to come down from the state and they're (the board) decided they don't want to wait for a decision."

Holland said he took Webster's question to a Statehouse lawyer to ask what the Legislature's intent was for a law that says a pair of Planning Board members cannot serve on another "board or commission together."

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"It's not a statute I was unaware of. Adam Webster brought it to my attention that having two Budget Committee members was inappropriate. I took it up to the state level and asked the legal counsel for the speaker of the House what her interpretation was. She felt I was on firm ground to interpret it the way that I did."

Webster, who said he may hire his own lawyer to get a decision, insists his question was not politically motivated.

"I didn't want people saying I'm just out to get him because of his relationship with Dick (Gregory)," Webster said. "It's really not. It has to do with what the state law is."

Webster said he first broached the subject to Holland via e-mail Dec. 3, then requested a legal opinion again through Keller on Dec. 19.

Gregory raised the subject when Mayer and Theberge sat on the Planning Board this week to deliberate a proposed zoning amendment.

"I asked the Planning Board chairman to not allow both of them to sit until (the issue) was decided. That would be erring on the conservative side of legal (considerations). There is a law that is very plain in my mind. In my legal opinion, it's all the same word in this case," Gregory said.

Gregory added that any other request for a legal opinion by a town official has gone to a town attorney for an opinion immediately, including one in which a Planning Board member asked a town lawyer whether the board had any recourse in changing a zoning amendment proposed by selectmen. The town took the opinion to lawyer Peter Solomon, who ruled that selectmen had the final say in the matter.

"That got a legal opinion faster than you can lick a stamp," Gregory said.

Models to

ZONING: Plan up for vote

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the Planning Board's special exception amendment.

"We would've gotten rid of everything we wanted to and would still have been able to grant the special exception for uses we can't foresee like a minor league baseball park or something like that," said Lyons.

Selectman Richard Gregory, who attended last night's meeting, is upset that his fellow board members essentially trumped the Planning Board's work on the special exception amendment.

"They're afraid," Gregory said of the Planning Board. "That was the most politically disgusting thing I've ever seen. (If) you're the Planning Board, you do zoning amendments."

Keller acknowledged there has been some concern by fellow Planning Board members over how this year's drafting on zoning amendments could play out in the future.

"There's no question it's not constructive to have misalignment and

confusion," Keller said. "We need to collaborate and use the process we've been using for years."



Selectman to hit streets to tighten zoning rules

BY JAMES A. KIMBLE
STAFF WRITER

SALEM — Selectman Everett McBride plans to pull voters into the tug of war between selectmen and the Planning Board over the town's special exception rule for land owners.

McBride said he's preparing to go "door to door" to campaign for selectmen's proposal to eliminate the town's special exception rule on its zoning ordinance. The rule allows a land owner to ask town planners to slightly bend zoning rules

“I talked to several people in the community and I've told them, by eliminating special exception you're not going to hurt the town of Salem or going to cause it to implode.”

Selectman Everett McBride

such as height requirements, a required number of parking spaces, or land use, based on unique circumstances of the property.

"I talked to several people in the community and I've told them, by eliminating special exception you're not going to hurt the town of Salem or going to cause it to implode,"

boards, which submitted competing proposals over whether to eliminate or simply amend the zoning rule.

Selectmen want to eliminate the rule, which was blamed earlier this year for allowing a developer to bring a 112-unit apartment project in an commercial district next door to Wal-Mart. But Planning Board members have noted that amending the rule would still prohibit residential properties from appearing on land zoned for commercial or industrial uses.

Planning board members floated

the idea of amending the selectmen's proposal, but that hope was nixed by lawyer Peter Solomon, who advised selectmen had the final say in the matter.

Selectman Stephanie Micklon said she believes voters will respond to eliminating the exception rule based on the apartment project alone.

"I'm going to strongly support to do away with it," said Micklon.

"That's what the majority of the people in the community wants.

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Holland said he believes eliminating the special exception rule entirely will be less confusing for voters.

Not all selectmen are following McBride's lead, however.

Selectmen Richard Gregory and fellow board members if they even understood the Planning Board amendment.

"Does anybody know what the Planning Board's special exception

(amendment) does?" Gregory asked. "I'd like to hear everyone else's opinion on this, because Everett is way off."

Micklon disagreed. "We need to start protecting the townspeople and not just some contractor or business."

A public hearing on zoning amendments is scheduled for tonight, 7 p.m. at Salem's High School's media center.

Lawyer: Selectmen have final zoning say

Competing proposal from planners allows special exceptions

By JAMES A. KIMBLE
STAFF WRITER

SALEM — Town counsel has resolved the question of whether the Planning Board or the Board of Selectmen gets final say on proposed zoning amendments headed for town ballots.

When Planning Board members draft proposed zoning amendments in the future, they won't be able to change anything selectmen may add, according to lawyer Peter Solomon.

Solomon was asked to determine whether the Planning Board has any recourse in changing a selectmen-favored zoning amendment that could eliminate the town's special exception rule. The rule allows property owners to depart from building height requirements or other provisions of the zoning code.

"Legal counsel has said they cannot change it," said Selectmen Chairman James Holland. "Whatever has been submitted, has to be submitted as is."

The opinion means voters may have to choose between competing proposals — one from the Planning Board, one from selectmen — to either eliminate or amend the special exception rule for commercial and industrial properties.

Voters can have their say on the two proposals at a public hearing tomorrow at 7 p.m. at the media center at Salem High School.

An uproar over Salem's special exception came this past year, when a developer used the rule to win approval for a 112-unit apartment complex on Route 28 next door to Wal-Mart.

The property was zoned for commercial development, but town planners said they were forced to approve the project because of the town's special exception rule. Planning Board members spent several weeks working on a plan that would bar apartments in commercial or industrial zones but would still allow the applicant to seek exceptions on current parking and height restrictions.

But selectmen decided to come up with their own proposal to eliminate the special exception rule entire-

SALEM: Competing proposals may go to voters

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ly.

The apartment project "sent a groundswell of controversy to me and I felt a need to respond. This is my response to citizens who are furious about it," said Holland.

Selectmen bringing forward their own zoning amendment didn't sit well with Planning Board members, who were under the impression that they'd be working alongside selectmen to draft changes to zoning amendments.

"As I said in the meeting, I was a bit surprised about it," said Planning Board Chairman James Keller.

Keller said he didn't want to comment further on the selectmen's proposed zoning amendment in light of tomorrow's public hearing.

"I'm not going to comment until

all the public input is in to us," he said.

The difference between the Planning Board and selectmen's plans to change zoning is small, according to Ross Moldoff, Salem's planning director.

"The Planning Board article does 90 percent of what the selectmen want," Moldoff said.

One argument Planning Board members have made against eliminating the special exception rule is

that such a plan would only invite a protest petition, requiring town officials to win a two-thirds majority to pass the measure.

Weber cited the plans to rezone Rockingham Park that were thwarted last year after town planners tried to steer any possible con-

struction there away from "big box" development. While the park remains in operation as a race track, park management lodged a protest petition against the proposed zoning changes.

Holland said he believes some people will protest any change. "I honestly believe a protest petition will come no matter what we propose only because most people enjoy the relaxed standard," Holland said.

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