

**NEW DURHAM BOARD OF SELECTMEN
New Durham Town Hall
November 18, 2019, 6:00 p.m.**

Final Approved 12-09-19

Present

Chair David Swenson
Selectman Cecile Chase
Selectman Dorothy Veisel

Also Present

Scott Kinmond, Town Administrator
Ron Uyeno, Resident
David Bickford, Resident

Call to Order

Chair Swenson called the meeting to order at 6:00 p.m.

Police Department – Recognition for Outstanding Service

Police Chief Bernier thanked and commended Officer Taylor Griffin for his service to the New Durham Police Department. Chair Swenson also thanked Officer Griffin for his service to the Town. Officer Griffin has accepted a position with the State Patrol. Chair Swenson noted Officer Griffin submitted a letter of resignation effective December 4, 2019.

Nomination for Appointment to Ethics Committee

Chair Swenson stated this would be a nomination with an appointment to follow in two weeks; he also thanked Brad Lipe for his willingness to volunteer for this position. Chase stated she's known Mr. Lipe for a while and has worked on projects in the past and believes he will be a knowledgeable addition to the committee.

Chair Swenson made a motion to nominate Brad Lipe to the Ethics Committee with a term to expire March 31, 2021. Selectman Chase seconded the motion. Motion passed 3-0-0.

Agenda Review

Chair Swenson moved a nomination to further down the schedule as the individual is not present at this time; he moved New Business up as the next item on the Agenda.

Request for Promotion/Hiring

Police Chief Bernier stated Officer Austin Valladares was hired as a part time police officer. He asked the Board of Selectmen to move that to a full time slot because of the time restraints with the police academy, which starts January 4, 2020 and he needs to get Mr. Valladares into the agility testing prior to being accepted into the academy.

Selectman Chase made a motion to promote part time Officer Austin Valladares to the position of full time police officer and authorize the Town Administrator to issue a letter of conditional offer for a three-year employment contract. Said full time employment to commence December 2, 2019. Selectman Veisel seconded the motion. Motion passed 3-0-0.

Public Input

David Bickford, resident, stated he filed an Ethics Complaint on November 9, 2017 for a public servant / Library Trustee, being in violation of Section 2.D of the New Durham Ethics Policy. He stated the Board of Selectmen replied on January 11, 2018 indicating the complaint is unfounded as the sign was placed on the NH DOT right-of-way; Mr. Bickford stated he filed an appeal on January 30, 2018 for ownership of property. Mr. Bickford stated that if the sign was on the right-of-way the Town zoning ordinance applies and referenced the relative ordinances. He stated he would like the Board of Selectmen to place the Ethics Policy placed on the Town Warrant under RSA 31:39-A, making it an ordinance. Mr. Bickford stated he questions the nomination of Brad Lipe to the Ethics Commission and whether he was the only applicant. Chair Swenson stated he would receive a reply to that question at some later point.

Town Administrator's Report

Town Administrator Kinmond distributed for review by the Board, the Signature Consent Manifest for the dates of November 4 to November 17, 2019.

Purchase Order – Library Furnace Replacement

Town Administrator Kinmond presented a purchase order from the Library for the removal and replacement of the current oil furnace and oil tank to a propane furnace along with the two quotes submitted. He stated the quote he recommends includes removal and decommissioning of the existing furnace and it comes from a resident in Town. He also indicated it is a more complete quote package which includes a summary of some overall deficiencies within the building. The Board reviewed and discussed the quotes. Chair Swenson stated the rationale to do the work with the recommended contractor is due to a couple reasons including the submission of a heat analysis to ensure proper sizing and the bid response is more complete and there is an improved exhaust system included.

Chair Swenson made a motion to approve Purchase Order #2682 to Santoro Plumbing and Heating of New Durham, NH in the amount of \$8,915 for the replacement of the Library furnace in accordance with estimate #1280. Said expenditure to come from Town Buildings and Improvements Account 01-5000—10-066. Selectman Veisel seconded. Motion passed 3-0-0.

Town Administrator Kinmond noted this was a project that was forecasted by the Capital Improvement Committee for 2019.

Purchase Order – Ballfield Irrigation Repairs Lakes Region Pump & Irrigation

Town Administrator Kinmond presented a purchase order for the ballfield irrigation repairs done over the last couple months. He stated prior to the repairs being done an assessment was done and an estimate was submitted to repair the existing pump along with putting in an automatic valve activation system noting they tried to get additional quotes for the work but none could be obtained. Town Administrator Kinmond stated there is still some work to be done but that will be finished in the spring of 2020. He noted the system is capable of being enlarged as necessary and confirmed there are sufficient funds available in the ballfield maintenance account to cover this work.

Selectman Chase made a motion to approve Purchase Order #2683 to Lakes Region Pumps and Irrigation of Moultonboro, NH in the amount of \$6,365 for the repair and automation of the Smith Ballfield irrigation system. Said expenditure to come from Account 01-4520-10-439. Chair Swenson seconded the motion. Motion passed 3-0-0.

Purchase Order – Bituminous Asphalt Pike Industries

Town Administrator Kinmond presented a purchase order from the Public Works Department for the purchase of 76.03 tons of bituminous asphalt mix which was utilized for the purposes of shimming sections of Birch Hill Road and North Shore Road.

Selectman Veisel made a motion to approve Purchase Order #2684 to Pike Industries of Belmont, NH, in the amount of \$5,354.11 for the purchase of asphalt. Said expense to come from Account 01-4312-01-679. Selectman Chase seconded the motion. Motion passed 3-0-0.

Chair Swenson suggested moving the Tax Rate setting item on the Agenda to after the Public Hearing set for 7:00 p.m. as the discussion on that item would take longer than available before opening the Public Hearing. The Board concurred.

Chair Swenson stated in response to Mr. Bickford's comments regarding the Ethics Committee nomination the Town has a bank of volunteer submittals and a listing of openings on the various boards and committees. The Board of Selectmen asked for the status of openings on the Ethics Committee and Mr. Lipe's name was publically presented in response.

Tax Payment Arrangement – Map 252, Lot 034

Town Administrator Kinmond distributed a memo from the Tax Collector in regards to Map 252, Lot 034, relative to a payment arrangement for the back taxes due. He stated the Tax Collector has gone through the financial report with the current owners and recommendations were made for repayment. The Board reviewed and discussed the plan presented. Chair Swenson confirmed the plan also includes remaining current with the taxes.

Chair Swenson made a motion to approve the tax payment plan as presented by the Tax Collector for Map 252, Lot 034, beginning January 1, 2020, with the condition

**that new tax bills are paid on time. Selectman Chase seconded the motion.
Motion passed 3-0-0.**

2020 Budget Review – Budget Committee Changes & Revenue Update

Chair Swenson stated the Budget Committee made a few small changes to the amounts recommended in Account 4195 and 4415. The Board reviewed and discussed the changes.

Chair Swenson stated in Account 4195 it was discussed to reduce the line 10-610 by \$500 but the Select Board did not do so because they had information presented that indicated additional supplies may be needed in 2020. However the Budget Committee did reduce that line by \$500.

Chair Swenson made a motion to rescind the Board of Selectmen action of September 30, 2019 for Account 4195 Cemeteries in the amount of \$3,490 and to approve the amount of \$2,990 for Account 4195 for the 2020 Budget. Selectman Veisel seconded the motion. Motion passed 3-0-0.

Chair Swenson stated that for Account 4415 Other Agencies the Budget Committee had extensive discussion along with presentations by a couple of the agencies and made recommendations for level funding from 2019 with the total account being up by \$346 from the amount approved by the Board of Selectmen.

Selectman Chase made a motion to rescind the Board of Selectmen approval of Account 4415 Other Agencies in the amount of \$7,200 and make a motion to approve the Budget Committee's recommended amount of \$7,536 for Account 4415 Other Agencies for the 2020 Budget. Selectman Veisel seconded the motion. Motion passed 3-0-0.

Chair Swenson stated there was a \$1,900 difference found in the Revenues.

Chair Swenson made a motion to rescind the Board of Selectmen motion of November 4, 2019 for the 2020 estimated Revenues of \$1,234,700 and to approve the updated amount of \$1,232,800. Selectman Veisel seconded the motion. Motion passed 3-0-0.

David Bickford vs. Town of New Durham – Failure to Perambulate Town Boundaries

Chair Swenson stated the Board of Selectmen received notice that Mr. Bickford has served the Town of New Durham a lawsuit in regards to the perambulation of the Town boundaries. Chair Swenson stated the failure to perambulate goes back to the time Mr. Bickford was on the Board and he objects as the Board of Selectmen is not refusing to do the perambulation but is actively working to find ways to do it effectively and in collaboration with other towns. He stated there would be further discussion of this at a later time.

Old Business

Electronic Devices Communications Policy

Town Administrator Kinmond distributed a copy of the current Communications Policy along with suggested edits. Chair Swenson noted this was reviewed recently and he had concerns with some prior modifications and these edits are in response to the Board's comments from that time. The Board reviewed and discussed the edits.

Selectman Chase made a motion to approve the Electronics Communications Policy as amended on November 18, 2019. Selectman Veisel seconded the motion. Motion passed 3-0-0.

Meeting Schedule

Monday, December 9, 2019, 6:00 p.m, New Durham Town Hall

Approval of Minutes

Meeting of October 23, 2019 – Joint Meeting with the Budget Committee – Edits were made. **Selectman Veisel made a motion to approve the minutes as amended. Chair Swenson seconded the motion. Motion passed 2-0-1.** Selectman Chase abstained as she was absent at that meeting.

Utilities Public Hearing

Chair Swenson opened the Public Hearing at 7:00 p.m. and read the Public Notice into the record: Pursuant to the provisions of RSA 231:163 & 43:2, for the purpose of considering amending all existing pole licenses to include language regarding taxation pursuant to RSA 72:23 and acknowledging the licensee's statutory obligation to move the licensed pole, conduit and equipment upon order of the Town. He stated the hearing is being held to determine if it is in the best interest of the Town. Chair Swenson noted the Public Notice was published in *The Baysider* on October 21, 2019 and noted the Board of Selectmen had the contract assessor assess the utilities poles and related equipment along with an estimate of the revenues the Town could expect from taxation of that. It was determined at that time the return on investment would be about three months.

Chair Swenson opened the Hearing to public input. Chair Swenson stated the utility companies assessment on property rights-of-way is a recent change in NH which allows for local taxation of the properties. He explained the methods used by towns for assessing the utilities properties along with the House Bill passed by the NH legislature outlining the formula for appraising and assessing.

Town Administrator Kinmond noted the Public Notice was posted in the newspaper, on the Town website, and posted at Town Hall for a period of 30 days prior to the Public Hearing. Utility companies were also notified by certified mail of the Public Hearing and all were received with confirmation of receipt.

No comment was made by the public.

Chair Swenson closed the Public Hearing at 7:07 p.m.

The Board reviewed the resolution presented.

Chair Swenson made a motion to declare that all outstanding pole licenses issued by or under the authority of the Board of Selectmen of New Durham or its predecessors acting under the provisions of RSA 231:161(B), or its predecessors statutes, are hereby changed to incorporate such formal licenses in effect as of November 19, 2019 and effective on such date, the following changes by inserting the following language:

Pursuant to the provisions of RSA 231:163 and 43:2, the Board of Selectmen held a public hearing on November 18, 2019 to determine if it would be in the best interests of the public good to amend all of the existing pole licenses issued by the Town of New Durham through (date of hearing) to include language regarding taxation pursuant to RSA 72:23. As a result of the public hearing, the Board of Selectmen have found it is in the best interests of the public good to amend these existing pole licenses to include the following language:

In accordance with the requirement of RSA 72:23, I (b), this license is granted to the licensee(s) subject to the condition that the licensee(s) and any other entity using or occupying property of the municipality pursuant to this license shall be responsible for the payment of, and shall pay, all properly assessed real and personal property taxes no later than the due date. Failure of the licensee(s) to pay duly assessed personal and real property taxes when due shall be cause to terminate this license.

In accordance with the requirements of RSA 72:23, I (b), the licensee(s) hereunder and any other entity using or occupying the property of the municipality pursuant to this license shall be responsible for the payment of, and shall pay, both current and potential real and personal property taxes when due. Furthermore, in accordance with the requirements of RSA 72:23, I (b), the licensee(s) and any other entity using and/or occupying property of the municipality pursuant to this license shall be obligated to pay real and personal property taxes on structures or improvements added by the licensee(s) or any other entity using or occupying the property of the licensor pursuant to this license.

The Petitioner hereby acknowledges its statutory obligation pursuant to RSA 231:177-181 to relocate the poles, structures, conduit, and equipment licensed hereunder upon written notice from the Town.

The Licensee is required to provide the town in writing the names and contact information for any additional provider(s) authorized now or in the future to place equipment at these location(s).

In addition, the Board of Selectmen has found it to be in the best interests of the public good to adopt a revised Pole License form to be used by the Town of New

Durham effective November 19, 2019 that includes the same language noted above for all future pole licenses to be issued in the Town of New Durham, NH and signed by the Board of Selectmen. Selectman Chase seconded the motion. Motion passed 3-0-0.

(Pole License Form is available on file at Town offices).

Approval of Minutes

Meeting of October 28, 2019 – Edits were made. **Selectman Veisel made a motion to approve the minutes as amended. Selectman Chase seconded the motion. Motion passed 3-0-0.**

Meeting of November 4, 2019 – Edits were made. **Selectman Chase made a motion to approve the minutes as amended. Selectman Veisel seconded the motion. Motion passed 3-0-0.**

New Business

2019 Tax Rate Setting

Town Administrator Kinmond stated he was notified today that an error was made by NH DRA when calculating the preliminary tax rate for New Durham noting the \$8,000 voted for the playground was not reflected on both sides of the revenue budget so this changed the rate by \$0.02. He stated the figures provided are all off by that amount noting the preliminary tax rate Town portion is \$6.29 and with the school, county, and state education rate is at \$24.38 per thousand valuation. Chair Swenson asked the current fund balance relative to the Town's guideline for reserves. TA Kinmond indicated it is 11.82% with the guideline amount of 8%. Chair Swenson stated the 2018 tax rate was \$5.46 after the Unassigned Fund Balance amount of \$275,000 was applied. Town Administrator Kinmond stated he could run more scenarios of Unassigned Fund Balance amounts applied to the tax rate for review by the Board. The Board reviewed and discussed the rate calculation scenarios presented. Chair Swenson stated that his core concern is having Unassigned Fund Balance amounts which are sustainable. The Board concurred with those guidelines. Chair Swenson stated the fund balance assignment of \$250,000 gives a rate of \$5.69; a \$275,000 assignment gives a rate of \$5.63; and \$5.57 with \$300,000. He noted the current rate is \$5.46; the school rate was \$12.75 and will be \$13.04 this year; the county rate was \$2.78 and will increase to \$2.86; the State education rate was \$2.36 and is now \$2.19.

Ron Uyeno, resident, asked what the historical numbers for the fund balance assignment were for the last three or four years. Chair Swenson replied last year was \$275,000, with one recent year being \$150,000 although the \$275,000 is the highest in recent years. He stated last year there was additional revenue from a timber tax and the Board of Selectmen wanted to return that to taxpayers. Chair Swenson explained the Board of Selectmen established the 8% unassigned fund balance guideline level several years ago in conjunction with the State recommendations. He explained the State Education portion that is collected by the Town for the State, is \$933,563; the portion to the county is \$1,993,257.

Selectman Chase stated that in an attempt not to borrow Tax Anticipation Note (TAN) the Town of Ossipee was sending payments to the school district in equal amounts each month with the school district then sending a bill according to their budgetary needs; the Town of Ossipee then borrowed against TAN for the difference. Town Administrator Kinmond noted the timber tax revenues wouldn't be available this year. After discussion the Board concurred with maintaining the level funding of the Unassigned Fund Balance similar to last year of \$275,000 applied to the current tax rate.

Selectman Chase made a motion to apply \$275,000 from the Unassigned Fund Balance to reduce the tax rate. Selectman Veisel seconded the motion. Motion passed 3-0-0.

Chair Swenson stated that puts the tax rate at \$5.63 per thousand valuation. However, that could change with warrant articles but will apply for the next tax billing.

Chair Swenson made a motion to enter into nonpublic session pursuant to RSA 91-A: 3 II (a) – the dismissal, promotion or compensation of any public employee or the disciplining of such employee; (b) – the hiring of any person as a public employee; (c)- matter which, if discussed in public would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine or other levy, if based on inability to pay or poverty of the applicant & (e)- Consideration or negotiation of pending claims or litigation which has been threatened in writing of filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson –aye. Motion passed, 3-0-0.

The Board entered nonpublic session at 7:49 p.m.

The Board reentered public session at 8:46pm.

Chair Swenson made a motion to seal the minutes of the nonpublic session of November 18, 2019 for reasons that it may adversely affect reputation for one other than the Board. Selectman Veisel seconded the motion. Motion passed 3-0-0.

Adjourn

Selectman Chase made a motion to adjourn. Selectman Veisel seconded the motion. Motion passed 3-0-0.

The meeting was adjourned at 8:47 p.m.

*New Durham Board of Selectmen Meeting
November 18, 2019*

Respectfully Submitted,

Jennifer Riel, Recording Secretary