

**NEW DURHAM BOARD OF SELECTMEN
New Durham Town Hall
December 31, 2019, 8:00 a.m.**

Final Approved 03-09-20

Present

Chair David Swenson
Selectman Cecile Chase
Selectman Dorothy Veisel – Present via telephone

Also Present

Scott Kinmond, Town Administrator
Heidi Duford, Resident / Treasurer
Vickie Blackden, Resident / nominee for Deputy Treasurer
David Bickford, Resident

Call to Order

Chair Swenson called the meeting to order at 8:09 a.m. He stated Selectman Veisel is unable to attend the meeting in person. He confirmed with her that she is unable to be physically present at the meeting and she is alone on the telephone. Selectman Veisel confirmed that is correct. Chair Swenson indicated that all votes on Select Board actions will be made by roll call vote.

Appointments/Announcements

Nomination for Deputy Treasurer

Chair Swenson stated that since the nomination two weeks ago the Deputy Treasurer nominee has withdrawn the request for appointment. Chair Swenson stated the Board of Selectmen has honored the withdrawal and were fortunate to have another volunteer for the nomination as Deputy Treasurer. He stated Vickie Blackden has worked for the Town in the past and asked Vickie Blackden to introduce herself and explain her background. Ms. Blackden stated she is an accountant for the City of Dover and works as a backup for the treasurer as needed. Chair Swenson stated the Board of Selectmen meeting schedule is a bit different for the next couple months, and the Treasurer has indicated that due to the changes in banking and other Treasurer needs having a Deputy Treasurer would be beneficial through this process.

Chair Swenson made a motion that due to time of the essence, the Board of Selectmen future schedule and known background of the individual to be appointed, that the two-week vetting period be waived and make an appointment of Vickie Blackden as the Deputy Treasurer with a term to expire March 31, 2020. Selectman Chase seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Chair Swenson stated David Bennett of the Department of Public Works participated in the Road Scholar Program at UNH. The Board of Selectmen received a letter dated

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December 18, 2019 indicating that Mr. Bennett achieved the completion of Road Scholar II which is part of the progression as indicated at the time of promotion and the Select Board congratulated Mr. Bennett on this achievement.

Public Input

None.

Agenda Review

No changes were made to the Agenda.

Town Administrator's Report

Town Administrator Kinmond distributed the Consent Signature Manifest 12-9-19 to 12-31-19 for review by the Board.

DPW – Purchase Order-Road Salt Morton Salt

The Board reviewed the memo regarding the purchase order. Town Administrator Kinmond stated this is for 600 tons of road salt and he gave a description of the costs and weights. Chair Swenson stated the cost per pound for the Morton Salt is more than the State bid salt product. However, when the moisture content of the salt is taken into account the Morton Salt is a lower cost when the water content is excluded. He stated that the drier salt helps with better absorption of the liquid deicer and the Morton Salt product is drier than the State bid product.

Selectman Chase made a motion to approve purchase order #2243 in the amount of \$35,700 to Morton Salt of Chicago, IL for the purchase of 600 tons of road salt. Said purchase to come from Account 01-3120-10-662. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

DPW 2019 Paving Contract Extension

Town Administrator Kinmond distributed a memo put together with Road Agent Vachon and explained the previous paving contract had a clause which allowed for renewal up to two years. TA Kinmond stated after review of the NH DOT Liquid Asphalt Escalator the paving contractor, R&D Paving of Franklin, NH, reviewed the work for next year and is willing to honor the base price of 2019, which was \$69.95 per ton with the understanding that if there is fluctuation of their material costs in the escalator it will be applied at the time of use. Town Administrator Kinmond stated this includes paving on Old Bay Road to the Farmington town line and a segment on Birch Hill Road. Chair Swenson confirmed this action is not approval of expenditure but authorizing the extension of the contract.

Selectman Chase made a motion to extend the 2019 Paving Contract with R&D Paving of Franklin, NH for an additional one year as outlined within the 2019 Paving Contract. Said asphalt per tonnage price to be contingent upon the NH DOT Asphalt Liquid Escalator and to further authorize an amount not to exceed \$220,000 for such pavement preservation work to be determined and submitted for

final approval by the Board of Selectmen on or before May 11, 2020. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

2019 Tax Year DRA Equalization Ratio

Town Administrator Kinmond distributed for review by the Board the Equalization Ratio from NH DRA for the period of October 1, 2018 through September 30, 2019. He stated he has reviewed this with the Contract Assessor and information was given as to why they have a 13% off market ratio. He stated it is because the Town does not make market adjustments during the cyclical evaluation period and it is done on a five-year rotation with a full market revelation due in 2020. Chair Swenson noted that in the next assessing / revaluation agreement the Town may want to have the market adjustments applied to the ratio each of the respective cyclical valuation years.

New Business

2019 Encumbrances

Town Administrator Kinmond distributed a memo regarding encumbrances and explained the breakdown of items to be encumbered into 2020. He noted the Bank of America card bill arrived after the 15th of the month and would need to be encumbered explaining it changed the figure originally presented by about \$3,000. Town Administrator Kinmond stated these items were all either purchased in 2019 or under contract in 2019. The Board reviewed the summary of encumbrances that total \$38,041.51.

Selectman Chase made a motion to approve the encumbrances in the amount of \$38,041.51 to fiscal year 2020 according to the detail provided in the Town Administrator's 2019 Encumbrances Memo dated December 30, 2019. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Birch Ridge Community Forest Support Letter

Chair Swenson stated he received a call a few weeks ago from South East Land Trust (SELT) and they are seeking additional grant funding for adjacent properties to the Birch Ridge Community Forest. SELT wants to be able to manage access and opportunities to get the Birch Ridge property. He stated they are asking whether the Town would be willing to offer financial support and / or a letter of support. Chair Swenson indicated he informed SELT that the Town would have difficulty providing financial support to this initiative at this time. However, Chair Swenson stated he would actively support a letter indicating the Town's support for SELT's acquisition of the property and he has drafted a letter which was distributed and reviewed by the Board. He asked if the Board would be in agreement to formally send a letter of support. Selectman Chase noted the properties total 643 additional acres. Chair Swenson noted SELT is pursuing the grant as well as other funding sources. Selectman Chase asked if the Conservation Commission would be interested in providing any financial support. Selectman Veisel noted this property is in a watershed area and asked if it disadvantages any Town residents in regards to access and asked for more information regarding the physical properties. The Board discussed the

map and area in question noting there is a steep slope area on the Middleton / New Durham town line; it would protect the opportunity to use trails through the properties as well.

Chair Swenson made a motion to issue a letter of support from the New Durham Board of Selectmen to SELT, Neil Bungard, Community Health and Open Space Program, to support the SELT application for Phase 2 of the Birch Ridge Community Forest as drafted and presented at the December 31, 2019 Board of Selectmen meeting. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Chair Swenson made a motion that the signatures on the support letter can be done by electronic signature from all Board of Selectmen members. Selectman Chase seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Review and Approval of Tax Credits

Chair Swenson confirmed these were reviewed and approved by the Contract Assessor. Town Administrator Kinmond confirmed they were. He stated these were not posted for public review prior to review and approval.

Chair Swenson made a motion to approve the Veterans Tax Credit for Map 108, Lot 053 in the amount of \$500. Selectman Chase seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Chair Swenson made a motion to approve the Veterans Tax Credit for Map 259, Lot 028 in the amount of \$500. Selectman Chase seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Chair Swenson made a motion to approve the Veterans Tax Credit for Map 250, Lot 078 in the amount of \$500. Selectman Chase seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Town Administrator Kinmond noted the elderly exemption tax credit is calculated based on income and veterans tax credits are a flat \$500 off the tax bill.

Chair Swenson made a motion to approve the Elderly Exemption Tax Credit for Map 252, Lot 034, on assessed value in the amount of \$45,000. Selectman Chase seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Legal Services

Town Administrator Kinmond stated notice was received from the Mitchell Group, indicating that the staff attorney Stephen Whitley, whom the Town has worked with, would be leaving the current firm, Mitchell Group and Associates. The Mitchell Group wants to know if the Board of Selectmen would like to have the Town's files, particularly the code violation of Merrymeeting Road case, being currently handled by Mr. Whitley, moved with him and continue to be handled by him at Drummond Woodsum Law Firm. Town Administrator Kinmond noted Drummond Woodsum Law Firm did submit a proposal in 2017 and he spoke with Mr. Whitley who assured him that the billing rate would remain the same between the firms. Chair Swenson suggested it might be a good time to take the opportunity to transition their legal services to another firm given that the Mitchell Group seems to be in a transition situation. The Board concurred with transferring the case currently being worked on by Mr. Whitley, to the new firm. Selectman Veisel asked if Town Administrator Kinmond saw any problems with legal coverage by doing this transfer. Town Administrator Kinmond replied he does not. The Board determined it would be appropriate to have further review of transfer of all Town legal services to another firm but transfer of the specific case in discussion retaining Attorney Whitley for this specific case is appropriate now.

Chair Swenson made a motion to have the case that has been described, that Stephen Whitley, formerly of the Mitchell Group had been involved with, to transfer to Drummond Woodsum Law Firm to have continuity for that case. Selectman Chase seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Election Coverage

The Board reviewed and discussed the upcoming election and schedule of Board of Selectmen coverage. Chair Swenson suggested having Kelly Gibson be a Select Board designee for election coverage due to various Select Board member schedules. Town Administrator Kinmond replied she might be unavailable as she works at the Library on Tuesday. However, he will follow-up with Ms. Gibson.

Chair Swenson made a motion to appoint Kelly Gibson as a Board of Selectmen designee to cover as needed on the Primary Election of February 11, 2020. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

The Board discussed further other election day Select Board coverage options.

Chair Swenson made a motion to appoint Fred Quimby as the second Board of Selectmen designee to cover as needed on the Primary Election of February 11, 2020. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Old Business

2019 Select Board – Annual Report

The Board reviewed the draft Annual Report letter which summarized the 2019 actions of the Board of Selectmen. Edits were made.

Selectman Chase made a motion to approve the 2019 Board of Selectmen Annual Report as amended. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

2020 Town Warrant – Update

Chair Swenson noted that for the current Article #6 the rate per \$1,000 was changed after calculations were made with some revenue items were corrected. He stated that what is currently Article #14, which was not previously in the draft warrant, is basically a repeat from previous years when they were able to use trust funds from the Shirley Trust to cover the Other Agencies account budget.

Selectman Chase made a motion to recommend Article 14 as amended: To see if the Town will vote to raise and appropriate the sum of \$7,200 for the purposes of funding contributions to Health and Other Agencies, including Cornerstone VNA, CAP of Strafford County, Haven, Etc. with this sum to come from authorizing the withdrawal of \$7,200 from the J.C. Shirley Timber Trust Fund #28. Said trust established for the purpose to benefit the Town of New Durham for such lawful purposes as the Town may direct at its annual meeting. A majority vote is required. Estimated tax rate is \$0.00.

Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Town Engineering Services – Update

Town Administrator Kinmond summarized the recommendations from the screening committee. He stated they did paper screening and conducted full day interviews and presented the scoring of the engineering groups. The Board reviewed the summary and recommendations. Town Administrator Kinmond explained the Board can take the recommendations of the committee or they can conduct their own screening and interview process as well. Chair Swenson stated the committee had good discussions and questions through the review and interview process. Selectman Chase stated she is happy with following the recommendations of the committee noting the individuals involved have more knowledge and experience with engineering. Selectman Veisel concurred. Town Administrator Kinmond distributed a summary of the 2018 and 2019 projects and the rates for each for review by the Board. Chair Swenson noted the three firms selected by the committee are 1. Weston and Sampson, 2. Wright Pierce, and 3. CMA Engineering. The Board opened, reviewed, and discussed the bid from the first firm, Weston and Sampson. After discussion and based on an unexpectedly high bid amount, it was agreed to open the second bid. The cost from Weston Sampson appeared to be higher than the Board feels is warranted for the work when compared to current and expected future costs. The Board opened, reviewed, and discussed the bid from the second firm, Wright Pierce. The Board concurred with getting more details regarding rates from this firm as the bid costs were closer to that expected.

Chair Swenson made a motion to indicate the Board has opened the bid from Weston and Sampson, which was the #1, rated firm by the engineering screening committee. After examination of the current costs have found that the bid costs per hour were higher than what the Board is willing to accept and to move on to the second firm on the QBS screening process. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Chair Swenson made a motion to authorize the Town Administrator to contact Wright Pierce to further define hourly rates per the projects typical of the projects as outlined in the QBS process. Selectman Chase seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Review and Approval of Minutes

Meeting of December 9, 2019 – Edits were made. **Selectman Chase made a motion to approve the minutes as amended. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.**

Meeting of December 12, 2019 – Edits were made. **Selectman Chase made a motion to approve the minutes as amended. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.**

David Bickford, resident, asked for comment regarding his submission of the petition Warrant Article conflict of interest ordinance. Chair Swenson replied the Board received it just prior to this meeting and is not prepared to comment at this time.

Chair Swenson made a motion to enter 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 Chase 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 9:55 a.m.

The Board reentered public session at 10:22 a.m.

Chair Swenson made a motion to seal the minutes of the nonpublic session of December 31, 2019 for reasons that it may adversely affect reputation of one other than the Board. Selectman Chase seconded the motion. Roll Call vote: Selectman Chase aye; Selectman Veisel aye and Chairman aye. Motion passed 3-0-0.

Chair Swenson made a motion to have Selectman Chase serve as Board of Selectmen representative to the interview panel for Police Interviews. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Chair Swenson stated he has a conflict with being able to attend the Budget Committee Public Hearing meeting on January 15, 2020.

Chair Swenson made a motion to appoint Selectman Chase as the Board of Selectmen representative to the Budget Committee for the Public Hearing on January 15, 2020. Selectman Veisel seconded the motion. Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye. Motion passed 3-0-0.

Chair Swenson stated prior to going into nonpublic session, David Bickford asked if the Board of Selectmen would comment on the conflict of interest ordinance petition submitted by Mr. Bickford. Selectman Chase stated they would need to have it reviewed by legal counsel. She stated on initial review, the Town has rescinded a past ethics ordinance which was on the books based on prior legal advice and jurisdictional difficulties. It was noted by virtually all Select Board members the Town of New Durham already has, per multiple legal reviews over the past 2 – 3 years, one of the best written Ethics Policies in the State. The current Ethics Policy has a well-documented process for resolution of perceived ethics violations by elected officials or Town employees. New Durham had a similar ordinance that was voter rescinded several years ago as it was felt by prior New Durham voters that there was opportunity for overstep by individuals with an “ax to grind” but without any real facts to successfully bring an ethics case. This petitioned Warrant Article is viewed by the Board to cause increased levels of harassment, a waste of Town legal costs due to potential frivolous required court adjudication, potential abuse of process that may be caused by individuals with personal agendas and / or personality conflicts with certain Town officials and /or employees and / or volunteers. With many communities throughout the state rescinding ethics ordinances in favor of ethics policies the Select Board feels this petitioned Warrant Article is completely unnecessary. Selectman Chase stated the Town has policies which cover conflict of interest and there have not been major problems. While there have been a few complaints these often come down to personal agendas. Selectman Veisel concurred with conflict of interest being covered within the existing policies to provide guidance through issues. Chair Swenson stated there is a process in the policy for handling conflict of interest concerns.

Adjourn

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**Chair Swenson made a motion to adjourn. Selectman Chase seconded the motion.
Roll Call: Selectman Veisel – aye; Selectman Chase – aye; Chair Swenson-aye.
Motion passed 3-0-0.**

The meeting was adjourned at 10:28 a.m.

Respectfully Submitted,

Jennifer Riel, Recording Secretary