

NEW DURHAM 2021 OPTIONAL HB1129 TOWN MEETING
Second Informational Session & Select Board Meeting
Meeting Minutes
February 4, 2021



TOWN of NEW DURHAM
2021 OPTIONAL HB1129 TOWN MEETING

Final Approved 2-22-21

In accordance with HB1129, pursuant to RSA 91-A: 2; Attendees log into Join Zoom Meeting <https://us02web.zoom.us/j/89183371932?pwd=cFNrVElMamI5RGthZE1xQ0ExN1ZlZz09> Meeting ID: 891 8337 1932 Passcode: 884397; Or via telephone number: 1-646-558-8656 Meeting ID: 891 8337 1932 Passcode: 884397

Technical difficulties contact Town Administrator Scott Kinmond at skinmond@newdurhamnh.us or by phone at 603-556-1516. Note: Town of New Durham offers no security assurances to those connecting via PC to a third party software and hardware not configured or controlled by our IT Service provider.

PRESENT

Linda Callaway, Town Moderator – via Zoom
David Swenson, Chairman, Board of Selectman –via Zoom
Cecile Chase – Board of Selectman via Zoom
Dorothy Veisel – Board of Selectman via Zoom
Terry Jarvis, Chair, Budget Committee – via Zoom
Ellen Phillips, Budget Committee – via Zoom
Jeff Allard, Chair, Planning Board –via Zoom

ALSO PRESENT

Scott Kinmond, Town Administrator–via Zoom	Paul Raslavicus, resident – via Zoom
Anina Soucy, Finance Manager – via Zoom	David Bickford, resident – via Zoom
Lisa Gonthier, resident – via Zoom	Bob Bickford, resident – via Zoom
Dave Curry, resident – via Zoom	Janice Anthes, resident – via Zoom
Cathy Orlowicz, resident – via Zoom	Greg Anthes, resident – via Zoom
Cathy Allyn, resident – via Zoom	Pat Grant, resident – via Zoom
Total of 34 attendees – some were unnamed via Zoom	Bob Kroepel, resident – via Zoom

CALL TO ORDER

Chair Swenson called the Select Board meeting to order at 7:00 p.m.

Chair Swenson stated that due to the State of Emergency declared by Governor Sununu and pursuant

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to Executive Order #12, the Town is authorized to meet electronically. He stated there is no physical location to observe this meeting. However, in accordance with the Order, it was confirmed that they are providing public access to the meeting by telephone, with additional access possibilities by video (Zoom); all members of the Board of Selectmen and Town Administrator have the ability to communicate contemporaneously during this meeting; the public has access to contemporaneously listen and participate via links posted on the agenda. Chair Swenson confirmed the meeting was posted appropriately with access numbers. He stated in the event the public is unable to access the meeting, it would be adjourned and rescheduled. Chair Swenson stated in the event they need to go into non-public session, a separate phone number will be used for the Board of Selectmen members to use and they will then reenter nonpublic session. Chair Swenson stated all motions would be taken by roll call vote; roll call attendance was taken for those participating in the Zoom meeting.

Chair Swenson made a motion to recess the Board of Selectmen meeting until the conclusion of the HB1129 Deliberative Second Session. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed 3-0-0.

Moderator Callaway called the Second Informational Session to order at 7:01 p.m.

Moderator Callaway stated that by vote of the Board of Selectmen, the Town of New Durham will conduct its 2021 Annual Town Meeting using the Optional House Bill 1129 (HB1129) Town Meeting Procedures approved by the State Legislature in response to COVID19 concerns, to utilize for this year only. Under these statutory procedures the Board of Selectmen will hold two virtual informational sessions, on Monday, February 1, 2021 starting at 7:00 P.M. and the second on Thursday, February 4, 2021 starting at 7:00 P.M. via the ZOOM Platform.

Moderator Callaway stated in accordance with HB1129 pursuant to RSA 91-A: 2 attendees can join by logging into the ZOOM link on the Town website or via telephone.

First Informational Session: After the Selectmen explain the warrant articles at the first session, the public will have opportunity before the second session to comment on or suggest amendments to the articles.

Second Informational Session: The Selectmen will again explain the articles and the comment and suggested amendments that have been received. Then any amendments to the articles will be made during that second session by vote of the Board of Selectmen only.

The Town Warrant, Budget and Ordinances are available at Town Hall or on the Website News and announcements <https://www.newdurhamnh.us/home/news/2021-optional-hb1129-town-meeting-draft-warrant-proposed-ordinances>

Voting will take place on, March 9, 2021 from 8:00 A.M. to 7:00 P.M. using the Drive-Thru procedure authorized by the Legislature. That Drive-Thru voting will take place at the New Durham DPW and Transfer Station, 56 Tash Rd, New Durham, NH. There will be two ballots used for Town voting, and

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“initial ballot” containing the election of officers and zoning article, and an “alternative ballot” containing all other articles.

Voters should also be aware that the same COVID-19 rules for expanded use of Absentee ballots have also been approved for this election cycle. Please contact the Town Clerk to request an Absentee Ballot when they become available if you choose to vote via that route.

Moderator Callaway stated there will be a Virtual Candidates’ Night held via Zoom at 7:00 p.m. on Thursday, February 23, 2021 for the candidates running for office on the Initial ballot. Those candidates attending will provide some background information / qualifications, why they are interested in the position, and be available for questions from the public. Information on how to attend the Virtual Candidates’ Night via Zoom will be available on the town web page and posted in the usual town locations.

This Informational Session for the Town is the second of the two (ZOOM) Sessions to be held under the Optional HB1129 Town Meeting Procedures approved by the State Legislature in response to COVID-19 concerns. This Second Session will complete the functions of a legislative body for the purpose of determining the final form of the articles to be voted on at the March 9, 2021 Ballot. The Moderator’s purpose is to preside over the Session and to assist those present in conducting the business of the Town.

Moderator Callaway stated the First ZOOM Informational Session was held on Monday, February 1, 2021. The Moderator then presented the Initial Ballot which contained two articles: (1) a listing of town officer openings and those candidates’ names received by the Town Clerk of New Durham by 5:00 p.m. on January 29, 2021, and (2) a non-debatable article submitted by the New Durham Planning Board. The Alternate Ballot was then presented with each article read and explained, followed by members of the public asking questions and receiving clarifications on the Articles. After the meeting concluded the public was encouraged to submit comments, suggest changes, or propose amendments up to the day prior to today’s Second Zoom Informational Session to the Town Clerk and / or Town Administrator.

Moderator Callaway stated at this Second Informational Session the Select Board will again read the articles and provide to the public all the comments and suggested amendments they received after the First Informational Session. Following the conclusion of this Second Informational Session the Select Board will then decide on any changes based upon the comments, proposed changes or amendments, and make any changes to the Warrant by their vote only. This then finalizes the Articles in the Alternative Ballot for the March 9, 2021 election. There will be no further input or questions permitted by the public during this session.

Voters need to be aware that even if they are voting NO for Article 1 on using the Alternate Procedures for the Town Meeting they should still vote on ALL remaining articles on the Alternate Ballot. If a majority of voters approve Article 1, then all remaining Article votes will be tallied. In short:

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If a majority vote YES for Article 1 in the Alternative Ballot then all remaining Article votes will be counted.

If a majority vote NO for Article 1 on the Alternative Ballot then all remaining Article votes will fail and the prior year's budget will be adopted for the coming year unless the Board of Selectmen holds a duly posted in-person Deliberative Session and subsequent ballot voting prior to September 1, 2021.

Moderator Callaway stated this process is for this year only and the Town hopes to return to a regular Deliberative Meeting in 2022.

PROCEDURES:

1. The Moderator will open the Second Informational Session under HB 1129 and the Select Board will proceed with the process described above.

PUBLIC ATTENDANCE:

1. All members of the public will keep their audio microphone muted at all times unless / until they are recognized by the Moderator or Zoom Host(s).
2. No public input will be accepted during this Second Informational Session. An exception will be made for anyone raising a Point of Order. A Point of Order is made to call to the Moderator's attention some matter that is interfering with the conduct of the Session. Please state your name and issue when recognized. The Town Administrator and Moderator will also be able to monitor the chat function for Points of Order.
3. All interactions are to be directed through the Moderator.

2021 TOWN WARRANT

Initial Ballot

Chair Swenson presented Article 1:

To choose all necessary town officers for the ensuing year:

<i>Number of Positions</i>	<i>Office</i>	<i>Term of Office</i>
<i>1</i>	<i>Selectman</i>	<i>3 Years</i>
	<i>Bob Kroepel</i>	
	<i>Ron Uyeno</i>	
	<i>Dorothy Veisel</i>	
<i>1</i>	<i>Moderator</i>	<i>2 Years</i>
	<i>Linda Callaway</i>	
<i>2</i>	<i>Budget Committee</i>	<i>3 Years</i>
	<i>Marc Decoff</i>	
	<i>Kenneth Fanjoy</i>	
<i>1</i>	<i>John C. Shirley Cemetery Trustee</i>	<i>3 Years</i>
	<i>Doug Gilman</i>	
<i>2</i>	<i>Library Trustees</i>	<i>3 Years</i>

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	Write in:	
	Write in:	
1	Planning Board	3 Years
	Jeff Allard	
1	Planning Board	2 Years
	Write in:	
1	Trustee of the Trust Funds	3 Years
	Write in:	
1	Zoning Board of Adjustment	3 Years
	Write in:	
1	Town Clerk	3 Years
	Donna Young	

Chair Swenson presented Article 2:

Are you in favor of the adoption of Amendment No. 1 as proposed by the planning board for the New Durham Zoning and Land Use Ordinance as follows: Amend Article II(C)(4)(a) to provide that zoning board members shall be elected rather than appointed. If this article passes, the appointed members will continue to serve out their terms and as those terms expire, new members will be elected at the next annual meeting
(Majority vote required)

Yes _____ No _____

The Planning Board recommends this article by a 5 to 0 vote.

Discussion

None.

Moderator Callaway closed the discussion for Article 2.

Alternative Ballot:

Chair Swenson presented Article 1:

Are you in favor of using the Optional Procedures authorized by the State Legislature for this year's Town Meeting only?

Yes _____ No _____

Majority Vote Required

The Board of Selectmen recommends this article by a 3 to 0 vote.

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Chair Swenson stated if voters vote “No” for Article 1 they should still vote on all remaining articles on the ballot. If a majority of voters approve Article 1 the remaining Alternative Ballot Articles votes will be tallied. If a majority vote “No” for Article 1, all following Alternative Ballot Articles fail and the prior year’s budget will be adopted for the coming year unless the Board of Selectmen hold a dully posted, in-person Deliberative Session and subsequent ballot voting prior to September 1, 2021.

Chair Swenson noted the *Voter Guide* has further details and explanations for all Warrant Articles.

Selectman Chase presented Article 2:

Shall the Town raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the Board of Selectmen, for the purposes set forth therein, totaling \$3,225,334. Should this article be defeated, under the terms of this alternative procedure the Board of Selectmen will have the choice of either holding another meeting before September 1, 2021 to adopt a new operating budget, or of using the amount of last year’s operating budget \$3,210,062 as this year’s operating budget.

Majority Vote Required

[Note: Operating Budget & Default Budget includes the Library Budget.

Estimated Tax Rate Impact – 2021 Proposed Budget: \$ 3.95 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes_____ **No**_____

No public comment was received on Article 2. Discussion for article 2 was closed.

Chair Swenson presented Article 3:

To see if the Town will vote to raise and appropriate the sum of \$745,627 for the purposes of a Road Program with \$111,000 to come from Highway Block Grant Aid, \$140,000 to come from the Unreserved Fund Balance and the remaining \$494,627 to come from general taxation.

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.83 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes_____ **No**_____

No public comment was received on Article 3. Discussion for Article 3 was closed.

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Selectman Chase presented Article 4:

*To see if the Town will vote to raise and appropriate the sum of \$142,000 to be placed in previously established Public Works related **Capital Reserve Funds** as follows with said funds to come from taxation:*

<i>Account</i>	<i>Established</i>	<i>2021</i>
<i>Highway Equipment</i>	<i>March 15, 2006, Article #12</i>	<i>\$10,000</i>
<i>Highway Trucks</i>	<i>March 4, 1988, Article #9</i>	<i>\$50,000</i>
<i>Vehicle & Equipment Maintenance</i>	<i>March 10, 2010, Article #15</i>	<i>\$5,000</i>
<i>Solid Waste Equipment</i>	<i>March 10, 2010, Article #14</i>	<i>\$17,000</i>
<i>Road Reconstruction</i>	<i>March 10, 2010, Article #5</i>	<i>\$40,000</i>
<i>Gravel</i>	<i>March 13, 2012, Article #5 amended March 10, 2020 Article #12</i>	<i>\$20,000</i>
<i>Total</i>		<i>\$142,000</i>

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.24 per \$1,000 assessed valuation.

*The Board of Selectmen recommends this article by a **3 to 0** vote.*

*The Budget Committee recommends this article by a **5 to 0** vote.*

Yes_____ **No**_____

No public comment was received on Article 4. Discussion for Article 4 was closed.

Chair Swenson presented Article 5:

*To see if the Town will vote to raise and appropriate the sum of \$40,000 to be placed in previously established Public Safety related **Capital Reserve Funds** as follows with said funds to come from taxation:*

<i>Account</i>	<i>Established</i>	<i>2021</i>
<i>Police Cruisers</i>	<i>March 15, 2000, Article #7</i>	<i>\$15,000</i>

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<i>FD Ancillary Equipment</i>	<i>March 10, 2015, Article #15</i>	<i>\$15,000</i>
<i>Fire Vehicles</i>	<i>March 12, 2003, Article #11, amended March 14, 2017 Article #7</i>	<i>\$10,000</i>
<i>Total</i>		<i>\$40,000</i>

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.07 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes _____ **No** _____

No public input was received for Article 5. Discussion was closed for Article 5.

Selectman Veisel presented Article 6:

*To see if the Town will vote to raise and appropriate the sum of \$20,000 to be placed in previously established Water Quality & Milfoil related **Capital Reserve Funds** as follows with said funds to come from taxation:*

<i>Account</i>	<i>Established</i>	<i>2021</i>
<i>New Durham Water Quality & Milfoil Treatment</i>	<i>March 9, 2009, Article #7 Amended March 12, 2019, Article #11</i>	<i>\$20,000</i>
<i>Total</i>		<i>\$20,000</i>

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.03 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes _____ **No** _____

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No public input was received for Article 6. Discussion was closed for Article 6.

Selectman Chase presented Article 7:

*To see if the Town will vote to raise and appropriate the sum of \$17,500 to be placed in previously established Facilities related **Capital Reserve** as follows with said funds to come from taxation:*

<i>Account</i>	<i>Established</i>	<i>2021</i>
<i>Smith Ballfield & Equipment</i>	<i>March 13, 2000, Article #9</i>	<i>\$2,500</i>
<i>Public Safety Facility</i>	<i>March 10, 2010, Article #17</i>	<i>\$10,000</i>
<i>Municipal Facility Land Acquisition</i>	<i>March 13, 2007, Article #8</i>	<i>\$5,000</i>
<i>Total</i>		<i>\$17,500</i>

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.03 per \$1,000 assessed valuation.

*The Board of Selectmen recommends this article by a **3 to 0** vote.*

*The Budget Committee recommends this article by a **5 to 0** vote.*

Yes _____ **No** _____

No public input was received for Article 7. Discussion was closed for Article 7.

Selectman Chase presented Article 8:

*To see if the Town will vote to raise and appropriate the sum of \$5,000 to be placed in previously established Facilities related **Expendable Trust Funds** as follows with said funds to come from taxation:*

<i>Account</i>	<i>Established</i>	<i>2021</i>
<i>Town Buildings & Improvements</i>	<i>March 15, 2000, Article #15</i>	<i>\$5,000</i>
<i>Total</i>		<i>\$5,000</i>

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Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.01 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes_____ **No**_____

No public input was received for Article 8. Discussion was closed for Article 8.

Selectman Veisel presented Article 9:

*To see if the Town will vote to raise and appropriate the sum of \$25,000 to be placed in previously established **Expendable Trust Funds** as follows with said funds to come from taxation:*

<i>Account</i>	<i>Established</i>	<i>2021</i>
<i>Computer Systems & Office Equipment</i>	<i>March 13, 1996, Article #11 Revised March 9, 2011, Article #26</i>	<i>\$20,000</i>
<i>Records Management</i>	<i>March 23, 1999, Article #23</i>	<i>\$5,000</i>
<i>Total</i>		<i>\$25,000</i>

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.04 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes_____ **No**_____

No public input was received for Article 9. Discussion was closed for Article 9.

Chair Swenson presented Article 10:

*To see if the Town will vote to raise and appropriate the sum of \$5,000 to be placed in previously established Facilities related **Capital Reserve Funds** as follows with said funds to come from taxation:*

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<i>Account</i>	<i>Established</i>	<i>2021</i>
<i>1772 Meetinghouse Restoration</i>	<i>March 15, 2000, Article #14</i>	<i>\$5,000</i>
<i>Total</i>		<i>\$5,000</i>

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.01 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes_____ **No**_____

No public input was received for Article 10. Discussion was closed for Article 10.

Chair Swenson presented Article 11:

Article 11: *To raise and appropriate the sum of \$13,000, to be placed in the Meetinghouse Restoration Capital Reserve Account, previously established on March 15, 2000, Article #14, said amount of \$13,000 to come from the unreserved fund balance.*

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.00 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes_____ **No**_____

No public input was received for Article 11. Discussion was closed for Article 11.

Chair Swenson presented Article 12:

Article 12: *To see if the Town will vote to raise and appropriate the sum of \$7,000 for the purposes of funding contributions to Health & Other Agencies i.e. Cornerstone VNA, CAP of Strafford County, Kingswood Youth Center, CASA, Strafford Nutrition Meals on Wheels, and Easter Seals Homemakers & Health Services, with this sum to come from authorizing the withdrawal of \$7,000 from the J.C.*

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Shirley Timber Trust (Trust Fund #28). Said trust established for the purpose to “benefit of the Town of New Durham for such lawful purposes as the Town may direct at its annual meeting.”

Majority Vote Required

Estimated 2021 Tax Rate Impact: \$ 0.00 per \$1,000 assessed valuation.

The Board of Selectmen recommends this article by a 3 to 0 vote.

The Budget Committee recommends this article by a 5 to 0 vote.

Yes _____ **No** _____

No public input was received for Article 12. Discussion was closed for Article 12.

Chair Swenson presented Article 13:

Article 13: *Are you in favor of repealing the town’s existing noise ordinance and replacing it with a new ordinance which defines and prohibits noise disturbances under certain circumstances, and which imposes penalties for creating such prohibited noise disturbances of up to \$500?*

[Note: A copy of this Proposed Ordinance is available for review at the Town Clerk’s Office and Town Website]

Majority vote required

The Board of Selectmen recommends this article by a 3 to 0 vote.

Yes _____ **No** _____

Public Input

Selectman Chase noted the initial noise ordinance was passed in 1990s; it was revised in 2006 and revisions are proposed for 2021.

Chair Swenson read the public inputs received:

- Bob Bickford – asked how an amendment could be made to the ordinance which would make farming operations exempt from the time limits pursuant to farming as defined by RSA 21:34-a. His rationale for this was supported by examples of instances where the time limits are impossible to meet including during haying season, calving and weaning seasons. Mr. Bickford also expressed concerns about this process being done virtually and believes an in-person session could have been coordinated.

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- David Bickford – proposed language for an amendment to the ordinance, citing RSA 21:34-a.
- Terry Jarvis – request to exempt all farming operations as defined in RSA 21:34-a stating she lives near a farm and has never been bothered by noise beginning or ending outside of the proposed time limits.
- Cathy and David Allyn – stated she supports Bob Bickford’s proposed amendment to the ordinance regarding farming operations.
- Cathy Orlowicz – outlined points for consideration: forestry practices are regulated by State of NH rules and regulations as well as local land use committees and boards which work to keep lands undeveloped. She is concerned about the impact on land owners’ ability to hire timber companies in Town. This could add further burden to an industry which already has much oversight and requested that forestry operations be added to the exemptions of the ordinance. She stated the timeframes will also impact the activities of local youth camps in Town of which fireworks have been allowed every two weeks during the camping season. These fireworks have been allowed and understood to be part of normal operations. She requested that the summer youth camps be added to the exemptions of the ordinance. She does not believe private events should be exempt.
- Lisa Gonthier – cited case law at www.courts.state.nh.us/superior/orders/countrypond.pdf which protects all existing firing ranges from any noise ordinances and suggested this be included in the ordinance as an exemption. She also suggested specifying decibel levels for determining loud noises; suggesting clarifying the 30 minutes time limits in regards to animal noise; suggested clarifying specific dates for New Year’s fireworks celebrations; suggested exemptions for emergency generator testing and services, not limited to power outages; suggested including the following exemptions: noise from lawful hunting activities, noise created by prior and lawful shooting at firing ranges/gun club property. She noted the language is extremely subjective in regards to what is a public nuisance and who determines what that is.
- Stephanie Richard - suggested decibel limits as part of the regulations noting it has come up before the Zoning Board of Adjustment.
- Janice Anthes – asked the reason for proposing this ordinance; concerned about the vagueness of the definitions section, and suggested the ordinance be removed from the ballot.
- Debbie Gere – stated she thinks the hours are restrictive and agrees with prior comments.
- Rudy Rosiello – stated the hours for the Farmington Fish and Game Club are typically 9:00AM to sunset; on Tuesdays it is until 9:00PM and these hours have been in place since the 1990s. Any shooting outside that time frame is on private property.
- Janice Anthes – noted the current ordinance only lists 11:00 p.m. to 7:00 a.m. but the proposed ordinance lists varying hours which change during days of the week and specific dates.
- Bill Meyer – stated he is the closest to the Bickford farm, the farming noise does not disturb him, and he fully supports the proposed amendments in this regard.

Chair Swenson presented the ordinance with the proposed changes:

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Section 10.2 Noise Disturbances prohibited by this Ordinance. The following are examples of noise disturbances prohibited by this Ordinance

7. Animals, Birds etc. The keeping of any animal or bird which by causing frequent or long (30 minutes or more) continued noise shall disturb the comfort or repose of any persons in the vicinity.
8. Fireworks: To limit the use of “consumer fireworks” to the hours of 12 noon and 10:00 p.m. Exceptions are two holidays, as recognized by the Town: (1) the 4th of July: limit use to 12 noon to 12 midnight; (2) New Year’s Eve (December 31st- January 1st), limit to 12 noon and up to 15 minutes past midnight of the Holiday. “Novelties” (like some sparklers,) are not considered “fireworks” and are not regulated. Definitions of “consumer” and “display fireworks” are those at 27 CFR 555.11 and NH RSA 160-C:1.

Section 10.4.2

- f. Emergency power generators, used during power outages, regular weekly or monthly test cycles or during routine maintenance
- g. Noise created by lawful hunting activities conducted in accordance with NH Fish & Game regulations.
- h. Noise created by lawful recreational shooting activities on private or established gun club (i.e. Farmington Fish & Game club) property between the hours of 7:00 a.m. and sunset (or within normal gun club hours established by the club/organization as approved by the Town.)
- i. Farming operations as defined by RSA 21:34-a Farm, Agriculture, and Farming.

Chair Swenson stated the Board will take official action at the conclusion of the Session when the Board resumes the board meeting.

Greg Anthes, stated he is still concerned about someone being charged with a noise disturbance and the lack of recourse for someone presented with a violation; he asked who determines something is a violation and who are the “agents”. Town Administrator Kinmond explained the civil forfeiture process which provides for appeal to the superior court. He stated Police Department typically handles these types of cases but there is an allowance for the Code Enforcement officer to also issue civil forfeiture violations.

Chair Swenson stated the Board discussed incorporating a decibel limit however they chose not to at this time as there is a complex process which must be gone through for determining limits, distance for noise source, etc..

Chair Swenson suggested an additional change based on the various inputs as follows:

Section 10.5 Penalty. Any person violating any of the provisions of this ordinance shall be guilty of a violation. The penalty for a first offense may be one hundred dollars (\$100). The fine for a second offense occurring in a calendar year shall be two hundred fifty dollars (\$250). The fine for a third or subsequent offense occurring in a calendar year shall be five hundred dollars (\$500).

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Moderator Callaway closed the Second Informational Session at 8:28 p.m.

The Board reconvened the Board of Selectmen meeting of February 4, 2021 at 8:29 p.m.

Selectman Chase stated many changes were made to the noise ordinance which she believes will work better to reinforce the State ordinances, which supersedes any Town ordinances. She stated if officers are called for a noise complaint they will be referencing State statutes as needed.

Selectman Veisel stated she agrees with the wording change which includes a warning. The Board agreed with changing the wording to say a penalty “may” be \$100 for a first offense.

Chair Swenson made a motion to have the ordinance relative to unnecessary noise, Ordinance TO 03.001 be used as amended on February 4, 2021 as the ordinance referred to in the Warrant Article #13 for 2021. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed 3-0-0

Chair Swenson made a motion to have the 2021 Town of New Durham Warrant Articles finalized as presented with the amendments, etc., on February 4, 2021. Selectman Veisel seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed 3-0-0.

ADJOURN

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

The meeting was adjourned at 8:40 p.m.

Respectfully Submitted,

Jennifer L. Riel

Jennifer Riel, Recording Secretary