

**TOWN OF NEW DURHAM  
BOARD OF SELECTMEN  
March 22, 2021, 6:00PM  
Virtual Meeting, New Durham, NH 03855**

*DRAFT: These minutes are strictly a draft copy and are awaiting amendment or approval at a subsequent, duly noticed public meeting. Amendments to these minutes will be noted in the minutes of said meeting. The draft will be posted on the website as a draft copy for public informational use only.*

*In accordance with Governor's Executive Order #12, pursuant to RSA 91-A: 2 Attendees log into:*

<https://us02web.zoom.us/j/85352945997?pwd=cUNUVHlHVHgwOXpQS2ZCQUFPVE55QT09>

*Meeting ID: 853 5294 5997 Passcode: 484596; Or via telephone number: 1-646-558-8656*

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*Technical difficulties contact Town Administrator at [ndadmin@newdurhamnh.us](mailto:ndadmin@newdurhamnh.us).*

*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**

David Swenson, Chairman, Board of Selectman –via Zoom  
Cecile Chase – Board of Selectman via Zoom  
Dorothy Veisel – Board of Selectman via Zoom

**ALSO PRESENT**

Scott Kinmond, Town Administrator–via Zoom  
John Scruton, Interim Town Administrator – via Zoom  
Wendi Fenderson, Governor Wentworth School Board representative – via Zoom  
Bob Craycraft, Planning Board, Vice Chair – via Zoom  
Mike Gelinas, resident – via Zoom  
Josh Linzetta, Esq., representative for the applicant – via Zoom  
Christopher Berry, Berry Engineering and Surveying – via Zoom  
Steven Whitley, Esq., Town Counsel – via Zoom

**CALL TO ORDER**

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

Chair Swenson stated that due to the State of Emergency declared by Governor Sununu and pursuant to Executive Order #12, 2020-04, 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.

### **Appointments/Announcements**

#### **Meeting with Governor Wentworth School Board Representative(s)**

Chair Swenson stated the Board has discussed multiple times the option to join the school coalition and decided to ask representatives of the Governor Wentworth School Board to join the discussion with the Board to ensure all sides of the issue are fully understood. Ms. Fenderson stated she is familiar with some of the current legislation what would affect the schools but she is not fully aware of the information regarding the coalition. Chair Swenson asked Town Administrator Kinmond to forward the information to her. Selectman Veisel explained she has attended a meeting of the coalition; the coalition is in the final stages of hiring a lobbying firm but she hasn't continue attendance to the coalition meeting as she doesn't have the approval of the Board at this point. She explained the cost was estimated to be about \$90,000 with \$50,000 already obtained and the remaining cost would be shared by the towns which join the coalition. It is a year-by-year membership. Selectman Veisel stated it's unclear whether New Durham would be a donor or recipient town; she noted she was concerned about discussion on taking a stand on other issues and she doesn't want to see those things bundled.

### **AGENDA REVIEW**

No changes were made to the agenda.

#### **Planning Board Piscataqua Regional Estuaries Grant Project**

Bob Craycraft, Planning Board, Vice Chair, stated the Planning Board has been working pursuing a grant from the Pisqataqua Regional Estuaries Grant Project. He stated this is for issues surrounding updating some Zoning Ordinances; they have been working with the Strafford Regional Planning Commission who put the grant proposal together. It requires a one part grant match from the Town and a letter of support from the New Durham Planning Board. He explained the funds were built into the approved Planning Board Budget and there are also some encumbered funds available. Mr. Craycraft outlined the articles which would be focused on with this grant including the shoreline conservation overlay.

**Chair Swenson made a motion to approve the Strafford Regional Planning Commission/New Durham Planning Board Pisqataqua Regional Estuaries Grant application and to authorize the Planning Board's contracted services account 01-4191-10-330 for the necessary matching funds if the grant is awarded and other Planning Board**

**funds to fulfill the completion of the matching funds. Selectman Veisel seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

**Powder Mill Snowmobile Club Request Permission For Trail Maintenance On Class V Roadway**

Mike Gelinas, Road Agent, presented copies of the tax maps showing and explained they are looking for permission to cross the Merrymeeting Road; he stated permission was obtained from New Hampshire Fish and Game to use the boat landing area near the dry hydrant, then come across to Russ Waldron's property. He stated a trail is being worked on to get to the Den and less time will be spent on the ice, a safer route and the groomer could go up the trail instead of the road. It was noted the only crossing is across from the boat launch. The Board reviewed the information provided. Town Administrator Kinmond noted he and the Road Agent have reviewed the request and the areas affected; they feel this request is reasonable.

**Chair Swenson made a motion to approve the Powder Mill Snowmobile Club's request for permission to cross the roadway which goes from the Fish and Game Landing and would include also Map 119, Lots 11 and 32, subject to written approval from the land owner for that specific use. Selectman Veisel seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

**Request Change Police Department Wage Adjustment Effective Date From 04/01/21 to 04/04/21**

Chair Swenson stated actions were taken a few weeks ago by the Board in regards to wage adjustments in the Police Department effective April 1. However, it was determined that date is not the beginning of a pay period and there was a request to adjust the start date.

**Chair Swenson made a motion to change all of the effective dates for all the Police Department wage adjustments which were previously made in 2021 and to rescind the April 1, 2021 start date and make it effective April 4, 2021. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

**Town Administrator's Report**

Town Administrator Kinmond distributed the Consent Signature Manifest for review by the Board.

**Nomination to Parks & Recreation Commission**

The Board reviewed the nomination request for Cindy McDade to the Parks and Recreation Commission. Town Administrator Kinmond confirmed there are six members on the commission currently so this is for the seventh member. Selectman Veisel stated she believes Ms. McDade will be a valuable addition to the committee however she has not attended any committee meetings although she has attended many Parks and Recreation events.

**Chair Swenson made a motion to nominate Cindy McDade of New Durham, NH as a member of the Parks and Recreation Commission with a term to expire March 31, 2024, subject to her attendance at Parks and Recreation Commission meeting per the Town policy, prior to the finalization of the appointment. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

#### **JJ Keller Training – JLMC & Safety Training Opportunity**

Town Administrator Kinmond stated this resource was utilized during COVID-19 for web based training; they also continue to receive support from New Hampshire Municipal Association but this would expand training opportunities for staff. He suggested not going with a subscription but utilizing it on a course by course basis. The Board concurred with not having a subscription.

#### **Update – Town Administrative Interview Panel**

Chair Swenson stated the interviews are scheduled via Zoom on Wednesday. Interim Town Administrator Scruton will be moderating the meeting; it will not be open to the public.

**PUBLIC HEARING, 7:00PM– *Petition For A Portion Of Bennett Rd From Class VI to Class V, In accordance with RSA 231:8 Applicant Seeking To Convert Portion Of Bennett Rd from Class VI to Class V.***

Chair Swenson opened the public hearing at 7:00PM. The purpose of this public hearing is in response to a petition for a portion of Bennett Road to be converted from a Class VI to Class V road. It was confirmed this public hearing was properly noticed and Chair Swenson read the public notice into the record.

Chair Swenson stated the Site Walk was held at 3:00PM.

Chair Swenson opened the public hearing to input from the applicant and applicant's representative.

Josh Lanzetta, Esq., of Dover, New Hampshire, representative for the applicant, Peter Rhoades, requested that if there are any technical difficulties, that the public hearing be continued so they may continue to present their case.

Mr. Lanzetta stated some issues came up at the site walk today; he stated there was baseless aggression towards a well thought out and planned addition for the Town. He stated a number of false statements were made which he wants to look into. M. Lanzetta stated Mr. Rhoades has hired experienced professionals for legal and surveying purposes in this project, and is doing it in good faith.

Mr. Lanzetta outlined the allegations made during the site walk and provided rebuttals: the plans submitted are in fact the final plans; the width of the road is to be 24'; the draft plan sets which are circulating are not the final plans. He stated he has met with the Town Administrator, Department of Public Works, and department heads and clarified some of the plans reviewed and discussed during those times were not the correct and final plans. Mr. Lanzetta clarified a subdivision plan has not been submitted; this is only a petition to lay out a road and are two completely different matters. He stated there was some talk of Libby Road being dissolved at some point; it would be the Town's burden to make that assertion; they did a robust title search and nothing was found regarding the dissolution of the road although plans were drafted. No proof has been presented and Mr. Lanzetta suggested it would be appropriate to request a continuance to research this issue further.

Chair Swenson asked Town Counsel, Steven Whitley Esq., for advice on continuing the public hearing. Mr. Whitley suggested if the Board decides to continue, they should set the date and time now so there is no need to re-notice. The Board concurred by consensus with granting a continuance.

Terry Jarvis, resident, asked if a member of the public is unable to attend the public hearing, whether written input would be accepted. Town Counsel confirmed it would be.

**Chair Swenson made a motion to accept the request by the applicant's representative to continue the public hearing for a Petition For A Portion Of Bennett Rd From Class VI to Class V, to April 12, 2021, at 7:00PM, via Zoom. Selectman Veisel seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

Interim Town Administrator Scruton stated there is a Libby Road History document available at Town Hall that both attorneys should look at to determine what took place between 1935 and 1957. Town Administrator Kinmond stated he would send that to the Board, applicant and representatives; he asked Mr. Lanzetta to submit a full size copy of the prints for review at Town Hall.

Ron Gehl, resident, asked if the Libby Road document could be shared on the Town website.

#### **DPW Compact Tracked Excavator Bid Results**

Town Administrator Kinmond stated three bids were received and presented a summary of the bids noting one was non-monetary. The bids were reviewed by the Board. It was the recommendation of Town Administrator Kinmond and the Department of Public Works to go with the bid from Milton CAT. Funding sources were discussed including the Highway Equipment and Solid Waste Equipment funds. It was confirmed the bid met the bid specifications. Chair Swenson noted when they Board initially looked at this and agreed to send it out to bid, they considered a 3.5 year payback versus renting equipment. Town Administrator

Kinmond outlined the justifications for utilizing an excavator within the Highway and Solid Waste departments as well as the various uses for this equipment.

**Chair Swenson made a motion to purchase the excavator from Milton CAT of Milton, NH, model 307.5 per the bid received in the amount \$102,500, with said funds to come from accounts 01-5000-10-062 in the amount of \$70,000 and account 01-5000-10-074 in the amount of \$32,500. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

## **NEW BUSINESS**

### **Select Board Organization**

*Chair, Vice Chair, Planning Board Rep, Budget Committee Rep, CIPC Rep, and CMSC Rep.*

**Selectman Veisel made a motion to nominate David Swenson as the chair of the New Durham Board of Selectmen. Selectman Chase seconded the motion. Discussion:** Selectman Chase asked if it is in the Town's bi-laws that the Board of Selectmen have representation on every board. Chair Swenson stated it is his understanding that it is. Interim Town Administrator Scruton stated some ex-officio members are by law, and is the case with the Planning Board and Budget Committee and it makes sense for the CIPC. The cyanobacteria mitigation steering committee is not required by law. **Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – abstain. Motion passed, 2-0-1.**

**Selectman Veisel made a motion to nominate Cecile Chase as the vice chair of the New Durham Board of Selectmen. Chair Swenson seconded the motion. Discussion:** Selectman Chase asked if it is in the Town's bi-laws that the Board of Selectmen have representation on every board. Chair Swenson stated it is his understanding that it is. Interim Town Administrator Scruton stated some ex-officio members are by law, and is the case with the Planning Board and Budget Committee and it makes sense for the CIPC. The cyanobacteria mitigation steering committee is not required by law. **Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

**Chair Swenson made a motion to nominate Selectman Veisel as the Board of Selectmen representative to the New Durham Planning Board. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – abstain; Chair Swenson – aye. Motion passed, 2-0-1.**

**Selectman Veisel made a motion to nominate Chair Swenson as the Board of Selectmen representative to the New Durham Budget Committee. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – abstain. Motion passed, 2-0-1.**

**Chair Swenson made a motion to nominate Selectman Chase as the Board of Selectmen representative to the New Durham Capital Improvements Committee. Selectman Veisel seconded the motion. Roll Call Vote: Selectman Chase – abstain; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 2-0-1.**

**Selectman Veisel made a motion to nominate Chair Swenson as the Board of Selectmen representative to the New Durham Cyanobacteria Mitigation Committee. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – abstain. Motion passed, 2-0-1.**

### **OLD BUSINESS**

*Education Coalition Communities 2.0 MOU – Multi-Year Fiscal Impact*

**Selectman Chase made a motion to table this topic for further consideration. Chair Swenson seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

### **Request for Lot Merger**

The Board reviewed the application. Town Administrator Kinmond stated the two parcels were at some point separate lots 72 and 71; he stated these were at some point merged but it's not clear whether it was an involuntary merge. The contract assessor has reviewed these and the deeds; it is recommended to grant the request to restore the involuntarily merged lots. The rationale by the applicant is that his dad is going to purchase a parcel across the street and this will allow access to the waterfront.

**Chair Swenson made a motion to approve the application to request restoration of involuntarily merged lots for Map 108, Lot 072; said unmerging to return the lots to 071 and 072. Selectman Veisel seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

### **APPROVAL OF MINUTES**

Meeting of March 16, 2021 – Postponed.

Meeting of March 8, 2021 – Postponed.

**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, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted; (b) The hiring of any person as a public employee; (c) Matters 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 or filed by or against the public body or any subdivision thereof, or by 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. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.

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

The Board entered nonpublic session at 7:54PM.

The Board reentered public session at 9:03PM.

Chair Swenson made a motion to seal the nonpublic minutes of March 22, 2021 for reasons that it may adversely affect the reputation of one other than the Board. Selectman Veisel 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 pay Town Administrator Kinmond, PTA accrual, in the amount of 240hours; as well as for additional eighty hours for the additional work that has been done; for a total of \$11,798.40 with the calculation to be confirmed and modified based on finance calculations for 320 hours at his current rate. The amount to come from account 01-5000-20-062. Selectman Veisel 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 adjust the pay rate of Department of Public Works Director Don Vachon, to \$29.40 per hour, effective April 4, 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 adjust the pay rate of Department of Public Works Supervisor Dave Bennett, to \$22.00 per hour, effective April 4, 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 adjust the pay rate of Department of Public Works Part Time Light Equipment Operator Paul Nixon, to \$16.50 per hour, effective April 4, 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 adjust the pay rate of Administrative Assistant Pam Ward, to \$17.49 per hour, effective April 4, 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 adjust the pay rate of Solid Waste Facility employee Don Adjutant, to \$15.00 per hour, effective April 4, 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 adjust the pay rate of Solid Waste Facility employee Ed Malone, to \$14.00 per hour, effective April 4, 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 adjust the pay rate of Solid Waste Facility employee John Trombetta, to \$17.34 per hour, effective April 4, 2021. Selectman Chase seconded the motion. Roll Call Vote: Selectman Chase – aye; Selectman Veisel – aye; Chair Swenson – aye. Motion passed, 3-0-0.**

**Next Meeting**

April 12, 2021, 6:00PM – Regular Business Meeting

April 12, 2021, 7:00PM – Continue Public Hearing for Bennett Road Application

**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 9:20PM.

Respectfully Submitted,

*Jennifer L. Riel*

Jennifer Riel, Recording Secretary