

**TOWN OF NEW DURHAM
BOARD OF SELECTMEN
April 24, 2023, 6:00PM
New Durham Town Hall, New Durham, NH 03855**

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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.

PRESENT

Marc DeCoff, Select Board Chair
Dorothy Veisel, Select Board Member
David Swenson, Select Board Member

ALSO PRESENT

Nicole Zoltko, Town Administrator
Will Cardinal, Road Agent
Ellen Phillips, resident
Rudy Rosiello, resident
Greg Anthes, resident
Janis Anthes, resident
Kelly Bisson, resident
Laura Spector-Morgan, Esquire of Mitchell Municipal Group, P.A.
Bill Meyer, resident

CALL TO ORDER

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

Roll Call & Pledge Allegiance

Roll call was taken for Board members present. The Pledge of Allegiance was said by those present.

Public Input

Greg Anthes, resident, made comments regarding the importance of public input during Board meetings as well as a response to comments made at the last Board of Selectman meeting.

Rudy Rosiello, resident, stated he reviewed information distributed by the Anthes and confirmed the information was accurate; he stated a hostile environment within the Town Hall when Mr. Uyeno was on the Board. He recommended the Board work to develop better controls for the finances as well as management of confidential records.

Ethan Fulk, resident, stated he is interested in the position on the Southeast Land Trust board and wanted to introduce himself to the Board.

Kelly Bisson, resident, via Zoom, stated she has questions about the streetsweeper for Copple Crown Roads and how it can be worked into the budget and schedule for next year.

Chair Swenson made comments relative to the democratic process of voting as well as the First Amendment. He outlined a summary of comments made during public input of the April 13, 2023 Board of Selectmen meeting with responses to those comments including copies of letters referenced.

TOWN ADMINISTRATOR'S REPORT

Committee Nomination:

1. SELT Birch Ridge Community Forest Management Committee- Ethan Fulk

The Board reviewed the application submitted by Mr. Fulk. Town Administrator Zoltko stated the information for joining boards or committees is on the Town website and noted they are looking for volunteers for the water quality committee as well.

Selectman DeCoff motioned to nominate Ethan Fulk for the SELT Birch Ridge Community Forest Management Committee. Selectman Veisel seconded the motion. Motion passed, 3-0-0.

Chair Swenson stated per the nomination policy, there would be a two week vetting period at which point they can make the official appointment.

NEW BUSINESS

A. Auditor Q&A- Business Representative by Timothy Greene, of Roberts & Greene, PLLC

The Board reviewed the auditor report for 2021. Chair Swenson noted the audit is clean with the exception of two points.

Timothy Greene, Roberts and Greene, PLLC, explained there are standards for governmental financial statements and long term liabilities are required to be shown in the books. He explained the process for calculating future benefits for employees. Chair Swenson stated in 2014 and 2019 the Board of Selectmen motioned to acknowledge receipt of the auditors reports, recognizing the actuality issue that the cost to rectify would be more to the Town than if it was covered later on.

Mr. Greene outlined his recommendations for funds held by the Town Treasurer, Boodey Farmstead, Meetinghouse, etc., and stated these funds need to be appropriated annually. Chair Swenson confirmed this will be addressed with the fund policy which was adopted in 2021. Mr. Greene explained there were also warrant articles which still need to be transferred from the Trust Funds. Chair Swenson asked that the specific items be provided to the Board of Selectmen so they can take care of the transfers. Town Administrator Zoltko noted the CRFs won't have the funds to do the transfers until the Trustees of Trust Funds have had their first meeting after the election and explained one item was already expended but the CRF cannot be used for the specific use and per the will, the Trustees cannot reimburse it. Mr. Greene stated in that instance, the warrant should have never been done. Chair Swenson asked Town Administrator Zoltko to get the current fund balances for all the CRFs for review by the Board.

Department of Public Works Highway Division, 2023 Work Schedule- Presented by Will Cardinal, Public Works Road Agent

Planned 2023 Capital Purchases for Department of Public Works- Presented by Will Cardinal, Public Works Road Agent

Will Cardinal, Road Agent, stated their largest project this year will be Ham Road. He stated they started culverts today and hope to have culverts completed this week. He stated they hope to accomplish the 319 project on South Shore Road this year. Road Agent Cardinal stated Ham Road will take most of the money for this year; Brackett Road had flooding over the winter due to beavers and the funds were used from the DPW budget for the repairs. He stated Olde Bay to Birch Hill Road will be resurfaced. He also explained the problems with signs being vandalized; he stated the Police Department has been investigating and they are working on filing an insurance claim for the damages.

Road Agent stated they had a lot of requirement breakdowns over the winter; he stated it's the mechanic's recommendation replace the 6-wheel trucks; there were also problems with the 10-wheel dump truck. He stated he would like to replace a couple of the trucks and the 2012 truck is due for replacement this year as well but it is worth keeping for another year or so. Selectman DeCoff suggested keeping some for backup if possible. Chair Swenson asked Road Agent to provide ballpark figures for replacement as well as the balance of the CRF. Selectman DeCoff suggested looking into leasing the equipment. Road Agent Cardinal stated he would not be opposed to that scenario. Chair Swenson stated he is willing to look into it but typically he is opposed to leasing because of the costs. Selectman DeCoff suggested they consider contracting out the road maintenance for Kings Highway as its so far from the center of Town.

Road Agent Cardinal stated the compacters at Solid Waste were scheduled for replacement in 2022 but they are still running and maintenance is not more than the cost of replacement at this point; he stated they are starting to rust and rot though. Road Agent Cardinal explained an option for buying a rolloff truck and then they can haul their recyclables instead of hiring a company for that; he suggested having the head of the Milton Solid Waste come in and talk about this option; he explained this option makes money for the town rather than being a cost to the town.

Road Agent Cardinal stated they need to look into replacement for the Quonset huts as they are failing. He explained the truck radios are over 20 years old, and aren't working properly and need replacement; he will forward the estimated costs to Town Administrator Zoltko. Chair Swenson noted ARPA funds may be available to be utilized for those items. Ms. Bisson noted there used to be a repeater installed in Copple Crown at the top of the ski lift; it was suggested they also look into replacing that to improve service in that part of Town.

Powdermill Snowmobile Club Presentation/Request, re: Willy Rd / Webster Rd- Presented by Mike Gelinas

Mike Gelinas, resident, stated at the February 24 meeting, the Board gave an approval but no formal action was taken to give approval for upgrades on the Class VI road. He explained work needs to be done on Webster Road and the Devil's Den roads, all which are Class VI; he stated if they get a grant, they are going to clean up the entrances to the State Route 11. He stated some Class V access roads are also going to be involved; they plan to down extra gravel to protect the pavement access areas.

Chair Swenson motioned to approve the request to improve and upgrade the Class V roads at Devil's Den and Webster Road to improve for snowmobile use as presented by Mike Gelinas at the April 24, 2023 Board of Selectmen Meeting. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

Chair Swenson motioned to approve the improvement as proposed by the Powder Mill Snowmobile Club as presented by Mike Gelinis at the April 24, 2023 Board of Selectmen Meeting, to improve the Class V roads of Berry Road, Brackett Road, Valley Road and Quaker Road; the improvements will be to add gravel to the access areas of the snowmobile trails to further protect the paved areas of those roads; and to authorize the Town Administrator to sign any approvals. Selectman Veisel seconded the motion. Motion passed, 3-0-0.

Chair Swenson motioned to have the Town Administrator sign any approvals need for the motion previously passed for the upgrade of Devil's Den and Webster Road. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

Mr. Gelinis stated he is working rerouting on the trail from Sunrise lake, as it getting move to more paved road but is still waiting on some landowner permissions. He explained there is a gate they will need to get permission from the land owner to use; he is looking for permission from the Town to use the Class VI roads for snowmobiles.

Selectman DeCoff motioned to allow the Powder Mill Snowmobile Club to use Willy Road as a snowmobile trail, upon approval with access to the gate. Selectman Veisel seconded the motion. Motion passed, 3-0-0.

1772 Meetinghouse Presentation: Charitable Checking Account Deposit and Request for Funds- Presented by Ellen Phillips, Chair of the 1772 Meetinghouse Restoration Committee; Meetinghouse Nomination

Ms. Phillips presented sponsorship information and donations for the sheepherder and other events at the upcoming Spring Fling on May 7, 10:00AM to 2:00PM at the Meetinghouse.

Chair Swenson motioned to approve the receipt of \$412.31 for the memo dated April 24, 2023 from the Meetinghouse Restoration Project Committee. Selectman Veisel seconded the motion. Motion passed, 3-0-0.

Chair Swenson motioned to approve the Special Event License for the 1772 Meetinghouse Restoration Committee for the May 7, 2023 event from 10:00AM to 2:00PM. Selectman Veisel seconded the motion. Motion passed, 3-0-0.

Ms. Phillips presented receipts for reimbursement for payment of the post office box as well as a payment to Sue Randall for the design of new flag for the Meetinghouse.

Chair Swenson motioned to approve the reimbursement to Ellen Phillips for \$68.00 and to Sue Randal for \$69.69 to come from account 4589, Meetinghouse, for reimbursement per details submitted to the Board on April 24, 2023, contingent upon receipt by the Finance Manager of all receipts. Selectmen DeCoff seconded the motion. Motion passed, 3-0-0.

Chair Swenson motioned to approve the event expense of \$500 to come from the Charitable Checking Account for the Meetinghouse for the event to be held May 7, 2023, for which they already have sponsors for \$400. Selectman Veisel seconded the motion. Motion passed, 3-0-0.

Selectman DeCoff stated he spoke with the Highway Department and they can advertise the event on the sign at the Solid Waste Facility.

The Board reviewed a nomination for the 1772 Meetinghouse Committee. Ms. Phillips noted the committee voted unanimously to support this nomination.

Chair Swenson motioned to nominate Cathy Allyn as a member of the 1772 Meetinghouse Committee. Selectman Veisel seconded the motion. Motion passed, 2-0-1. Selectman DeCoff abstained.

Special Event License Application: 5K Road Race

Chair Swenson motioned to approve the Special Event License for a 5K road race on June 24, 2023. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

2020, 2021, and 2022 Tax Abatement for Northern New England Telephone, FairPoint Communications (CCI Agreement)- Presented by Nicole Zoltko, Town Administrator on behalf of the Assessing Department

The Board reviewed abatement requests. Chair Swenson stated these abatements are a result of the public hearing for the pole tax which was held in March; he confirmed these were reviewed by the Contract Assessor.

Chair Swenson motioned to approve the abatement request for 2020 for Map 273, Lot 002, per the Public Hearing agreements of 2023 in the total amount of \$7,909; in 2020 the assessed value went from \$525,600 to \$468,581 for a revised assessment of \$57.19. Selectman Veisel seconded the motion. Motion passed, 3-0-0.

Chair Swenson motioned to approve the abatement request for 2021 for Map 273, Lot 002, per the Public Hearing agreements of 2023 in the total amount of \$8,099; in 2021 the assessed value went from \$525,600 to \$415,500 for a revised assessment of \$72,100. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

Chair Swenson motioned to approve the abatement request for 2022 for Map 273, Lot 002, per the Public Hearing agreements of 2023 in the total amount of \$90; in 2022 the assessed value went from \$72,100 to \$67,100. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

Tax Credit Application & Timber Tax Abatement - Presented by Town Administrator on behalf of the Assessing Department

Town Administrator Zoltko explained this is a yield tax on timber cut; she stated it was reviewed by the Tax Collector and Assessing department.

Chair Swenson motioned to approve the yield tax information provided at the April 24, 2023 Board of Selectmen meeting, such that the applicant originally had bond in the amount of \$13,150.99; the yield tax taken away from that would be \$1,202.63 so the amount returned to the applicant would be \$11,948.36 for Map 253, Lot 038. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

Abatement Recommendation, Veterans All Tax Credit, Solar Exemption, and Elderly Exemption Library Land Swap Per Warrant Article 12 in 2019

The Board reviewed the abatement recommendations.

Selectman DeCoff motioned that the Veteran's Tax Credit for Map 234, Lot 049 be referred to assessing for review. Selectman Veisel seconded the motion. Motion passed, 3-0-0.

Chair Swenson motioned that the application for a Solar Exemption for Map 264, Lot 007 be referred to assessing for review. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

Chair Swenson motioned that the application for the Elderly Exemption for Map 249, Lot 007 be referred to assessing for review. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

Selectman DeCoff motioned to approve the land reduction abatement for Map 210, Lot 088 in the amount of \$35,100 for a revised assessment of \$58,400. Chair Swenson seconded the motion. Motion passed, 3-0-0.

OLD BUSINESS

Request for sale of Tax Deeded Property

Chair Swenson stated there were previous discussions in 2018 and 2019; he explained there is a landowner who owns land immediately adjacent to the library and the Town owns some tax-deeded property which is immediately adjacent to Russ Weldon's property and it was agreed it would be advantageous to have some sort of land swap at minimum cost to each party. He stated it would provide the library space for future expansion if need be. Chair Swenson stated it was put on a 2019 Warrant Article and passed by voters; he stated the transaction was not finalized and has asked this item be returned to the agenda for further discussion. He stated he is advocating to move forward with this land swap. Town Administrator Zoltko stated a plot map needs to be adjusted, with Planning Board approval because it will make a lot more nonconforming, and it may need approval from the Zoning Board of Adjustment as well. She stated she asked Building Inspector, Scott Lacroix, to follow up with Norway Plains to discuss it with the individual who had been handling the case. Chair Swenson stated there is no reason they can't move forward because the voters have approved it; he stated its not a Planning Board issue. Town Administrator Zoltko stated Norway Plains insists it needs to go through the Planning Board even though the warrant article was approved; she stated Norway Plains won't move forward at this point. Chair Swenson suggested the deed be registered to move forward. Laura Spector-Morgan, Esq., Town Counsel, stated she doesn't see a problem with the lot merger and moving forward with recording the deed. Chair Swenson stated unless legal counsel has a reason to hold off, they need to move forward with the deed registration; the costs would be to the Town.

2023 Select Board Schedule

The Board discussed the future meeting schedule for the Board. It was agreed meetings would be held the second and fourth Tuesday of the month at 5:00PM; the first meeting would be at the New Durham Community Room and the second meeting would be at the Town Hall.

Legal Counsel Q&A – Business Representative Laura Spector-Morgan, Esquire of Mitchell Municipal Group, P.A.

Chair Swenson stated there are two lawsuits, one of which had a public hearing on March 15 for the pole tax. Ms. Spector-Morgan stated the contract assessor handled that case and it has been resolved. Chair Swenson stated the other case involved PFAs; he stated there has been multiple testing and never had a positive result. Ms. Spector-Morgan explained the lawsuit is by 3M against municipalities as they are trying to distribute liability as much as possible and subpoenas are issued to nearly every town in the state to have documents submitted related to the disposal; she stated it was federal lawsuit which was sent back to the states and the subpoenas are not valid at this point however the State is still working on the case and she advised that towns need to continue gathering the necessary documents. Ms. Spector-

Morgan stated if 3M turns around and sues towns, they will be referring the Town to an environmental lawyer. She confirmed there is no action for the Board at this point.

Chair Swenson motioned to enter nonpublic session pursuant to RS 91:A-3II, (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; (d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community; (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; (l) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present and (l) Considerations of legal advice provided by legal counsel.* Selectman Veisel seconded the motion. Roll Call Vote: Selectman Veisel -aye; Selectman DeCoff-aye; Chair Swenson-aye. Motion passed, 3-0-0.

The Board entered nonpublic session at 8:51PM.

The Board entered public session at 9:39PM.

Chair Swenson motioned to seal the minutes of the nonpublic session of April 24, 2023 for reasons it may adversely affect the reputation of one other than the Board. Selectman DeCoff seconded the motion. Motion passed, 3-0-0.

The Board reviewed requests for tax deeded properties. Selectman DeCoff stated he looked at the properties and suggested it be offered to the abutter, per the Town's tax deeded property policy. Town Administrator Zoltko presented a copy of a decision from 2019 for a tax deeded property sale as well as a total estimate of costs for each parcel. Selectman DeCoff suggested all abutters need to be notified. It was suggested the costs for compiling the information for the sale as well as notification of abutters needs to be added to the estimate. Town Administrator Zoltko noted per the policy, all the lots are nonconforming so the process is different but all lots in Copple Crown Village District are nonconforming and considered legal, buildable lots by the deeds. After discussion, it was agreed bids would be due from abutters by June 12, 2023, close of business with the intention of transaction completion by July 25, 2023.

Chair Swenson motioned to offer the property, per the policy of the Town for Tax Deeded Properties, of Map 210, Lot 008, 009, 016, 017, 019, to the abutters, and have abutters issue a letter of intent to be received not later than close of business on June 12, 2023, indicating intent, with an intended transaction completion date of July 25, 2023, with the understanding that the offer to the abutters is to cover all Town-related costs for these properties, which includes unpaid taxes, any legal fees, all Town Hall costs to obtain the information, registry of deeds recording fees, postage and other labor costs involved in making this offer. Selectman DeCoff seconded the motion.

343

344 **Selectman DeCoff motioned to adjourn. Chair Swenson seconded the motion. Motion passed, 3-0-**
345 **0.**

346 The meeting was adjourned at 9:55PM.

347 Respectfully Submitted,

348 *Jennifer Riel*

349 Jennifer Riel, Recording Secretary

DRAFT