

NEW DURHAM BOARD OF SELECTMEN
New Durham Fire Department Community Room
August 18, 2014, 1:00p.m.

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:

Chairman David Swenson
Selectman David Bickford
Selectman Theresa Jarvis

Also Present:

Jeremy Bourgeois, Town Administrator
Jennifer Riel, Minute Taker
Corkey Mork, Videographer
Kevin MacCaffrie, Interim Fire Chief
Shawn Bernier, Police Chief
Katie Woods, Police Department Executive Assistant
Jim Daley, Code Enforcement/Building Inspector
Rudy Rosiello, Resident
Tony Bonanno, Resident
Gregory Anthes, Resident

Call To Order

Chair Swenson called the meeting to order at 1:00p.m.

Appointments/Announcements

Police Chief – E911 Data Capture for the Town of New Durham

Police Chief Bernier and Executive Assistant Katie Woods presented information compiled in conjunction with the New Hampshire Department of Safety, Division of Emergency Services and Communications to develop an E-911 mapping system. Ms. Woods explained it has every house in New Durham marked with a street number and she is going to be going through it to check for accuracy. She stated three copies of the large maps and desk maps may be obtained however they are not to be made available for public use. Once approved by the Board of Selectmen, the maps will be printed along with CDs containing the information for the police cruisers. The maps will be updated by the Bureau constantly and new maps will be sent with each update.

Chair Swenson clarified the mapping system is provide by the State and there is no cost to the Town. He also noted there are three items the State is asking for: an acceptance letter, acknowledgement of non-standard addressing and a data release agreement.

Ms. Woods noted there are two roads that need to be checked for accuracy. Selectman Jarvis asked what needed to be done to correct some of the nonstandard addresses listed

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that are listed (i.e. A, B, C). Ms. Woods replied it would be quite a process but they would need to let the residents know the numbers would be reassigned.

Chair Swenson noted there is no specific statement indicating the nonconforming addresses need to be changed but there is the suggestion that the Town review them with the Town Attorney any potential liability. He stated that unless the Town emergency services recommend making changes, it's not clear why they would do so.

Selectman Jarvis suggested that if they complete the acceptance letter, acknowledgment of the nonstandard addresses and data release agreement, they would not be prevented from having the Police Chief and the Fire Chief looking at the addresses and editing the street numbers. Ms. Woods stated she has never been aware of problems within the police department with finding the correct addresses. She explained when 911 has a discrepancy, they email her and she corrects it in the computer system.

Selectman Bickford stated he would like to know more about the confidentiality part of it and asked who that refers to. Ms. Woods replied the map can't be displayed in a public place. Chair Swenson asked if there are reasons why it could not be made public. Ms. Woods replied that according to Mike Kelleher, Field Representative of E-911, it was explained that if individuals have a private drive, that information not be put out in the public including private phone numbers. Selectman Bickford stated he recalls legislation that required owners of private drives to have their roads named by the towns.

Chair Swenson asked what the timetable is to complete this. Ms. Woods replied she has eight weeks or they will have to back to the end of the line and wait over a year for information from the State.

Police Chief Bernier noted he and Ms. Woods recently attended a class regarding E-911. They now have a program where they can send information to all residents on a particular road if it needs to be closed for emergency reasons.

Chair Swenson noted there are two other recommendations from the State: that the Town initiate a process for checking existing road names for duplication (which may be done by the Planning Board) and actively participate in the maintenance program with the State.

Interim Fire Chief MacCaffrie stated his biggest problem is people need to mark their properties and mailboxes appropriately.

Chair Swenson summarized the discussion and it was agreed: a) the Board of Selectmen will define the questions to the Police Department for Mr. Kelleher by Friday, August 22 after further review including what is involved in the maintenance process and what is the Town's obligation with that; and what is the confidential nature of the maps that would preclude them from being public; b) to have a review by the Police Department, Fire Department and ENP to determine if any issues require any Town action; c) initiate a process to ensure no duplication occurs in the future and follow the suggested processes

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for future development.

Selectman Jarvis stated the changing of street numbers is the responsibility of the Board of Selectmen and asked if there were any problems for the police and fire departments. She stated she would like to have the Police and Fire Chiefs go over the information and see some changes made. Ms. Woods stated she would get a copy of the maps for the Fire Chief and Police Chiefs to review.

The Board of Selectmen drafted a letter outlining all the questions to be passed onto Mr. Kelleher.

Part Time Police Officer

Chair Swenson stated Town Administrator Bourgeois compiled a market study survey of surrounding towns' part time and full time police officer salaries. The information was gathered from the communities, the Police Chiefs Association and the New Hampshire Municipal Association. The salary summary compiled by Town Administrator Bourgeois was reviewed and discussed.

Police Chief Bernier stated there are currently two part time officers. One will be leaving Wednesday to go to the State Police who was being paid \$17.34 per hour, and the other part time officer, who also works in Alton, is being paid \$18.06 per hour in New Durham. Selectman Jarvis stated that according to the pay scale that was done a few years ago, the range is \$13.00 to \$22.80 per hour, and is the same salary range as for full time officers.

Selectman Jarvis asked how many hours is required for part time certification. Police Chief Bernier replied it is currently eight weeks but next year the Police Standards and Training Academy will be going to 16 weeks for the full time officers. He has not received anything from Police Standards and Training regarding changes in the part time certification.

Chair Swenson noted the information indicates New Durham is very competitive with other towns in their pay for part time officers. Same for full time officers.

Selectman Bickford noted some towns have different pay for officers who are part time certified and full time certified officers working part time.

Police Chief Bernier noted a pay study was done four years ago by the Local Government Center and the current rates in New Durham for full time certified officers at that time was \$19.09 and part time was \$17.00 per hour. He stated they are already behind where they were four years ago with pay.

Selectman Bickford asked if Police Chief Bernier is really trying to get part time positions filled. It was agreed the assumption that they weren't paying part timers high enough salaries was inaccurate. Selectman Jarvis replied Police Chief Bernier came to the Board of Selectmen within the last year and asked to fill both a full time position and advertise for part timers. She stated at that time, the Board of Selectmen advised him to

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focus on getting full time officers. Police Chief Bernier replied he has been before the Board of Selectmen to ask about part timers but he was not told to go ahead and try to get more part time officers. Chair Swenson agreed and stated it is a reasonable request that if the Board of Selectmen asks him to try and get a larger pool of part time officers, he would do so.

Police Chief Bernier asked if the Board of Selectmen can look Town-wide at showing the possibility of raises for new employees. He stated this is a big question he gets from officers and potential hires who want to know what they are going to make in the future, providing their evaluations are agreeable. He stated some communities have a set pay scale outlining precise raises. He suggested there should be some kind of pay scale within the Town of New Durham.

Selectman Bickford stated he agrees with this and noted he worked on this with Don John a few years ago. Selectman Jarvis stated a pay scale was adopted in 2008 which listed out all grades and steps on the premise that one would move up each year with favorable evaluations. However, since she's been on the Board of Selectmen, they have not followed the pay scale.

Selectman Jarvis stated the part time pay is not competitive with Alton or Farmington and she has no problem with raising part time pay. However, she does have an issue with raising part time pay and not at the same time raising full time pay as there is a significant difference in the amount of hours spent in training. She believes that unless it is a matter of seniority, part time officers should not be starting at wages higher than full time officers. Selectman Jarvis stated she expects that when they don't have part timers to fill shifts, full timers will do so. Police Chief Bernier agreed and stated that is part of their job and they are expected to do so.

Police Chief Bernier stated he completely agrees with Chief Sobel of Middleton's comment in the summary when he talks about officer commitment. Chief Sobel's statement indicated he would not pay part time officers more than full time officers. He expects a full time officer to be committed to the department and part time officers usually have other jobs. When he needs a shift filled, he expects a full time officer to fill it. Police Chief Bernier stated they run into the same thing in New Durham.

Chair Swenson asked if when going through the review for potential full time candidates, was part time work a consideration among any of the applicants. Police Chief Bernier replied there were a couple candidates willing to do part time work. None of them are certified and the Town would need to pay them to go to the Academy.

Selectman Jarvis stated at the last meeting there was a suggestion presented regarding the use of an auxiliary police officer. She asked if that is allowed by the State and if so, how does it work and differ from a part time officer. Police Chief Bernier replied they are not paid, and to his knowledge, an auxiliary officer has to work with a full time officer. They are not allowed to work alone unless it is a traffic control/crossing guard detail.

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Selectman Bickford stated he spoke with Chief Sobel and was told he does not have any problem getting part time officers. Selectman Bickford stated it is news to him that the Board of Selectmen had not put pressure on Police Chief Bernier to get part time help. Chair Swenson replied that is an interpretation that was not said. Selectman Bickford stated other towns have part time pools, so why doesn't New Durham. Selectman Jarvis noted Farmington does have a pay scale for part time officers but they aren't able to fill the open positions.

Chair Swenson asked if Police Chief Bernier has an interest in expanding his part time pool. Police Chief Bernier replied he does. Chair Swenson stated the consensus is no one objects to expanding the part time pool but for whatever reasons, there has not been an emphasis on doing so. He suggested Police Chief Bernier develop a proposal for expanding his pool for part time officers and to provide justification, other than pay, for increasing part time officers within the department. Selectman Jarvis asked that the proposal also include what the cost will be to the Town if individuals are hired who are not certified.

Selectman Jarvis stated they previously nominated an individual to receive a conditional offer employment, pending all the pre-employment background checks. She stated that has all been completed and asked if they were going to make the conditional offer, a final offer. Police Chief Bernier replied they already have done so but the appointment paperwork needs to be signed. He noted the individual is going for her pre-entrance PT test next week with Police Standards.

Anthony Bonanno, resident, suggested having a rate for part time certified and uncertified officers in Police Chief Bernier's proposal.

Road Agent Update

Road Agent not present.

Public Input

Gregory Anthes, resident, asked about the cost of the attorneys for the Fire Department lawsuit. Chair Swenson replied that as of the last meeting there was no additional meeting but as of today the invoice total is around \$9,306 for the Fire Department lawsuit. Mr. Anthes asked if there is an estimate on how much the summary judgment will be and asked if they could find out from the attorneys.

Mr. Anthes asked about the four hires within the Fire Department. Chair Swenson clarified those were promotions. Mr. Anthes stated when this was discussed at previous meetings, residents had asked if the individuals had gone through background checks and a drug test.

Selectman Jarvis replied they do not automatically do drug tests on new employees and certainly not promotions. She stated random drug testing is done on individuals who have CDLs, as required by federal standards. Selectman Jarvis stated they have never required drug testing of the Fire Department since she has been on the Board of Selectmen or

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when she was a member.

Mr. Anthes asked if individuals have been hired within the department who have not been drug testing and asked if all individuals who were promoted, were drug tested when hired. Selectman Jarvis replied they would have to go back and check the medical files.

Chair Swenson clarified the hiring policy does include the possibility of drug testing. Selectman Jarvis noted the pre-employment policy says they will have a pre-employment physical, and they will be offered the Hepatitis B vaccination series. She stated she does not believe there drug testing is done for new hires, except for possibly police officers.

Mr. Anthes suggested it puts the Town at risk by hiring individuals without drug testing. Chair Swenson agreed that from a business perspective, he has a valid point. He stated they do need to look into seeing if it is part of the pre-employment physical. Selectman Jarvis stated she would be interested in finding out what the cost would be if it is not being done. Mr. Anthes suggested the Board of Selectmen make drug-testing part of the employment policy.

Rudy Rosiello, resident, stated that often times drug testing is indicated in hiring policies, employment applications and sometimes it is stated they have a drug/alcohol-free work environment, all of which allow multiple ways this can be addressed.

Tony Bonanno, resident, thanked Selectman Jarvis for bringing up the fact of prioritizing development of a pool of part time officers in the Town.

Mr. Rosiello stated he would like to see if there is some sort of framework to put in place that allows checks and balances to make sure RSAs are being appropriately interpreted and applied as they should be.

Appointments/Announcements

Chair Swenson introduced Jim Daley, the new Code Enforcement/Building Inspector and Health Officer. Chair Swenson stated he has already observed some very positive developments, changes and opportunities to be looked at since Mr. Daley started. Selectman Jarvis stated there is a change in Mr. Daley's office hours and asked him to explain. These will be updated on the Town website.

Mr. Daley explained that with the office hours he proposed, he has the ability to be available two or three mornings during the week but he wants to do inspections by appointment. He has the ability to make his schedule compatible with what the Town needs. As far as Saturday goes, he will be available on the last Saturday of the month and can be available all day. He stated he plans to be available 5:00p.m to 8:00p.m., two evenings a week. Mr. Daley stated he could offer more hours to the Town, if needed, particularly during the summer months.

Department Reports/Issues

Fire Officer Appointment Confirmation

Chair Swenson stated the vetting process is complete and the nominations for promotions need finalization.

Selectman Jarvis made a motion to appoint David Stewart as the deputy fire chief of the New Durham Fire Department. Selectman Bickford seconded the motion. Motion passed, 3-0.

Selectman Jarvis made a motion to appoint Lon Berry II as a captain in the New Durham Fire Department, contingent upon him starting an acceptable EMS course within six months and obtaining his State license within twelve months. Chair Swenson seconded the motion. Selectman Jarvis clarified she is referring to his ambulance license. Selectman Bickford stated he would be voting against this motion as there was another individual who was already fully qualified. Chair Swenson replied that over the last few months, the Board of Selectmen frequently heard from one or two individuals that responsiveness for the individuals on the Fire Department is an extremely important issue and should be carefully considered. Chair Swenson stated one of his major issues was one of the candidate's comments that he would be having a very heavy workload through 2017. Chair Swenson stated in order to ensure responsiveness to the taxpayers of New Durham, he therefore felt this was a key-deciding factor between the candidates. **Motion passed, 2-1. Selectman Bickford opposed.**

Selectman Jarvis made a motion promote Robert Varney to the position of lieutenant in the New Durham Fire Department. Chair Swenson seconded the motion. Motion passed 3-0.

Selectman Jarvis made a motion to promote James Sheppard to the position of lieutenant in the New Durham Fire Department. Chair Swenson seconded the motion. Discussion: Selectman Bickford stated he doesn't feel Mr. Sheppard is ready for this position yet. **Motion passed, 2-1. Selectman Bickford opposed.**

Chair Swenson noted Cameron Libby has passed his EMT certification and is now licensed with the State of New Hampshire.

Town Administrator's Report

Appointment Policy/Committee Appointments

Town Administrator Bourgeois stated he contacted his colleagues to see what other towns use for processes regarding this issue and distributed a summary of his findings along with a copy of the Town of Lee's policy. The summary was reviewed and discussed. Selectman Jarvis stated she feels the policy they currently use is adequate, where Town Administrator Bourgeois contacts incumbents to see if they are interested in reappointment.

Selectman Bickford stated Lee's policy is very thorough and thinks they need one to avoid the debacle he witnessed with the budget committee where individuals' applications were not even reviewed. He stated it looks like corruption and cronyism to the public. It is inappropriate to not have applications reviewed by the appropriate

governing body, which in this case is the budget committee.

Chair Swenson clarified the Board of Selectmen does not collect the applications and stated the budget committee should be following the Town's policies. He noted that in the summary done by Town Administrator Bourgeois, of the towns surveyed, four replied and noted that in three of the four, incumbents are required to indicate their interest in writing. It was clarified that the current process in New Durham involved either an email or phone call to the individual. In two of the four towns, both new applicants and incumbents fill out applications.

Selectman Bickford suggested adopting a policy similar to the Town of Lee. He also suggested that applications be held on file for a defined period of time. He stated it is a matter of being fair to everyone. Selectman Jarvis stated she interprets Selectman Bickford's comments about individuals expressing interest needing to fill out an application, to be covered the first time they do so and does not see a need to fill out an application again when their term is up.

Chair Swenson suggested that if they are going to have a policy, they need to be more in line with what the Town of Lee has. He stated he would like to get some recommendations from New Hampshire Municipal Association.

Old Business

Audit Note 19 – GASB#45

Chair Swenson stated this discussion is in response to an adverse opinion in the audit that indicated the Town has a liability for three or four individuals relative to some healthcare related costs.

Town Administrator Bourgeois stated an actuary firm has been contacted to determine if there was any liability to the Town. It was concluded there is, due to some retirees under the age of 65 receiving health insurance from the Town, even though the Town is not contributing towards it. Town Administrator Bourgeois contacted his colleagues and it is a mixed bag of how this is handled in other communities, with some choosing to take the note as it is not worth paying for the studies which range in price from \$1,400 up to \$5,000. Town Administrator Bourgeois stated some towns have been cited but it has not affected their ability to get loans, coverage, bonds, etc.

Chair Swenson stated the issue is the amount of the unknown liability, which could be determined by an actuary.

Selectman Jarvis stated some retirees are allowed to buy insurance through the Town, and clarified that if retirees do not pay the healthcare premiums, the Town is not required to cover the costs. She doesn't understand where the liability to the Town comes from because the Town is not paying for the healthcare.

Selectman Bickford asked how many of the three or four people, are under 65. Town Administrator Bourgeois replied he's not sure but if they are not yet 65, they are not

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eligible for Medicare. Selectman Bickford stated at this point he doesn't have any interest in going forward unless more information is presented.

Chair Swenson stated he believes the potential liability is pretty small but if they do not choose to go with an actuary service, he strongly suggests they send a letter to the auditor explaining they have reviewed the situation and don't believe it is worth it to the Town to determine the liability. He stated it may cost more to determine the liability and the liability itself.

Selectman Jarvis noted that out of the four retirees, two are over 65 and eligible for Medicare, one pays New Hampshire School Care directly, and there is currently one individual who carries a two-person plan. Selectman Jarvis noted she gets a subsidy from the New Hampshire retirement system and that leaves only one individual who is a potential liability.

It was agreed by consensus to draft a letter to the auditor.

Chair Swenson made a motion stating the Board of Selectmen received a draft of the audit dated 7/11/2014 and have noted that Audit Note #19 indicates an adverse opinion. Upon further review, the Board of Selectmen has determined that the cost to the Town of addressing that adverse opinion may be more than the liability itself and differ with the auditor on that adverse opinion. The Board of Selectmen under those conditions, accept the audit report as drafted. Selectman Jarvis seconded the motion. Selectman Jarvis stated she wants the letter to include notification to the auditors that the Board of Selectmen has consulted with lawyers and a senior actuary who has stated "from what you have said, it appears to me that the Town does not have any obligation, not even for an implicit subsidy under GASB #45." Chair Swenson stated that has since been updated and there may be an obligation, but it was not specified. **Motion passed, 3-0.**

Fund Balance Level & Policy/Guideline

Chair Swenson stated this was discussed at the prior meeting with a range of 7 to 10% between the Board of Selectmen members. Drafts of the fund balance policy/guidelines were reviewed and discussed.

Selectman Bickford stated he believes the policy should be on the low end with 5%, and stated Department of Revenue doesn't think 5% is too low.

Chair Swenson stated he doesn't think this should be a policy but rather a guideline.

Selectman Jarvis stated she doesn't have a problem with having it as a guideline instead of a policy but when she checked with the Finance Officer on this, it was determined the auditors said it needed to be a policy.

Chair Swenson stated that even if it is a policy, the current wording states it is a goal. He stated he also wants to make sure that they are consistent with the new SB2 form.

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Selectman Bickford stated it is a goal to stay at a certain level and isn't sure if going to 5% is sustainable. He stated he thinks they need to do more in the way of management, looking at personnel and seeing where they can consolidate.

Chair Swenson replied he thinks 5% is too low. Selectman Bickford stated it is about maintaining a goal.

The total tax liability to the Town for 2013 was reviewed and discussed along with the use of the fund balance in 2013.

Selectman Jarvis stated the recommendation from auditors has been 8 to 10%. She stated she definitely does not want to drop it to 5%. Selectman Jarvis stated she wants to make sure that any of the unassigned fund balance that is utilized, either for warrant articles or for reducing the tax rate, is something that is going to be sustainable.

Selectman Bickford stated the intent is to create a maintainable floor. Chair Swenson replied it is a goal.

Selectman Jarvis made a motion that the Town's goal is to achieve and maintain a level of unassigned fund balance in the amount of 8% of regular general fund operating expenditures. Chair Swenson seconded the motion for discussion.

Discussion: Chair Swenson asked what is defined as regular general fund operating expenditures. Selectman Jarvis replied it is Town, school district, State education tax and county education tax.

Chair Swenson made a motion to amend the motion that the regular general fund operating expenditures be defined as Town operating expenses, school expenses, State education expenses and county expenses. Selectman Jarvis seconded the amendment. Amendment passed 2-1. Selectman Bickford opposed.

Selectman Jarvis stated she has worked on this since early 2012 with Vickie Blackden, the former Finance Officer and she clarified it includes those four items. Selectman Jarvis noted she is only agreeing with the 8% so they can move forward in getting the fund balance policy established.

Selectman Bickford stated the Board of Selectmen goals was just to get together and review with Department of Revenue Administration. Chair Swenson corrected him that the goal was to set a percentage as a guideline and stated "the guideline percent to be based on Board of Selectmen discussions." **Amended Motion passed, 2-1. Selectman Bickford opposed.**

The draft of the policy was reviewed and discussed.

Selectman Jarvis made a motion to approve the Town of New Durham Fund Balance Guidelines as amended at the August 18, 2014 Board of Selectmen meeting.

Chair Swenson Seconded the motion. Motion passed, 2-1. Selectman Bickford opposed.

Chair Swenson noted that one of the Board of Selectmen goals has now been fulfilled with this action. Chair Swenson clarified that the guidelines that have been established are certainly open to revision should additional information be received from appropriate sources such as the Department of Revenue Administration.

Hiring, Transfer and Promotional Policies

Town Administrator Bourgeois stated changes were made in the wording for the job postings to indicate the internal and external postings will be done concurrently. Other edits were reviewed and discussed.

Selectman Jarvis made motion to approve the employee hiring policy as presented and discussed at the August 18, 2014 Board of Selectmen meeting. Selectman Bickford seconded the motion. Motion passed, 3-0.

It was agreed to edit the transfer and promotional policy to indicate postings will be for five days.

Selectman Jarvis made a motion that the employee transfer and promotional policy be approved as discussed at the August 18, 2014 Board of Selectmen meeting. Selectman Bickford seconded the motion. Motion passed, 3-0.

Town Hall Hours/Office Arrangement

Chair Swenson stated the Town Hall hours have been revised by the Town Clerk/Tax Collector, effective September 2, 2014 and indicated the hours will be as follows:

Monday 9:00a.m. to 4:00p.m.

Tuesday 9:00a.m. to 7:00p.m.

Wednesday 9:00a.m. to 4:00p.m.

Thursday 9:00a.m. to 4:00p.m.

Friday 9:00a.m. to 4:00p.m.

Last Saturday of the month, 9:00a.m. to 12:00p.m., unless it is a holiday weekend, then it will be the second Saturday of the month.

Selectman Jarvis noted a big part of this has to do with security and having individuals alone in the Town Hall at certain times. It was also noted the Town Clerk/Tax Collector sets her own hours and the Board of Selectmen does not have control or take any action on this.

Town Hall Security

Selectman Jarvis stated she has met with both Police Chief Bernier and Carole Ingham, Town Clerk/Tax Collector regarding security concerns at Town Hall. A memo outlining her preliminary recommendations was distributed and reviewed.

Selectman Jarvis summarized her memo and noted she has advocated for a long time to

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have video-only security cameras. Police Chief Bernier has looked into having 3 or 4 cameras tied into his computer system. He is currently working on getting costs for that. There was also discussion of bulletproof glass, a voice communication system and document exchange system. The preliminary estimates for those is between \$2,500 and \$3,500.

Selectman Jarvis stated it is her recommendation and Police Chief Bernier agrees, the two doors that go to the outside should be locked at all times, the door into the new area should have a lock compatible with the master key and at the end of the day, the deadbolt should be put into place. She noted that several security concerns can be addressed with simple changes in habit, and suggested that at the end of the day, all doors should be locked.

Mr. Anthes suggested looking into keyless entry. Mr. Rosiello suggested looking into a panic alarm.

Chair Swenson asked that Selectman Jarvis come up with a full cost and implementation plan before action is taken.

Assessing Clerk

Town Administrator Bourgeois stated there was prior discussion about the current use and timber tax duties. He stated no current use applications have been received lately, and timber tax applications are still being accepted but they haven't been processed enough to be assessed on the tax portion yet. The forester previously used by the Town, will be coming in at the end of the month to see if there is any work to be done.

Selectman Jarvis asked if there is any documentation or data input required for the timber process. Town Administrator Bourgeois replied once the applications are received, the Road Agent and the Board of Selectmen sees them, and then they are assessed for taxes. He stated Laura Zuzgo is currently handling this process.

New Business

September Meeting Schedule

It was noted the next regularly schedule meeting date is September 1, which is a holiday. After discussion, it was agreed to move the Board of Selectmen meeting to Thursday, September 4, 2014 at 7:00p.m.

The September 22, 2014 meeting was moved from 1:00p.m. to 7:00p.m.

Board of Selectmen /Budget Committee Joint Meeting

September 3, 2014 at 7:00p.m.

Budget Schedule

Chair Swenson stated he developed a draft of a budget schedule, which was distributed. The schedule was reviewed and discussed. He stated the bottom line is if this schedule is adhered to, the budget will be finalized by December, which is in good shape relative to

SB2 needs. Chair Swenson will rework the schedule to include the recommendations.

Recreation Director Interviews

Selectman Jarvis stated three applications have been received and according to the hiring policy, at least one member of the Board of Selectmen must sit on the interview board. Selectman Bickford clarified the reason they do so is because it is paid through the General Fund. Town Administrator Bourgeois stated the Recreation Director asked that the entire Board of Selectmen sit on the interview board to avoid the individual having to come back for a second interview.

After discussion, it was agreed the entire Board of Selectmen along with at least two members of the Parks and Recreation Commission will sit on the interview board.

Impact Fees

A summary of impact fees collected as of 5/13/2014 was reviewed. After discussion, the Board of Selectmen asked Town Administrator Bourgeois to have the information resorted and distributed to the Board of Selectmen for review prior to the next meeting.

Social Media Use

Selectman Bickford presented copies from a Facebook page that he stated he has a problem with. Chair Swenson clarified the information distributed is not from a Town Facebook page. Selectman Jarvis noted there is a disclaimer on the page indicating the page is not owned or run by the Town of New Durham and indicated she doesn't see what authority they have over it.

Selectman Jarvis stated they have discussed the use of social media previously, particularly how they need to be careful in walking the line between what Town employees do as employees or as individuals.

Selectman Bickford stated it appears to be run by one of the Town employees and he thought it was addressed in the updating of the social media policy. Chair Swenson replied it was one of the IT pieces that is still awaiting input back from legal counsel and is not officially in place. He stated he is not aware of this page having been done by an employee. Selectman Jarvis stated that even if it is done by an employee, if they are doing it as a private Facebook page, which seems to be indicated by the disclaimer, any citizen in Town can have their own page. She stated there was a recent court decision noted in a legal update email from the New Hampshire Municipal Association which stated the U.S. Supreme Court explained the First Amendment protection of an employee's speech depends on a careful balance between the interest of the employee as a citizen and commenting upon matters of public concern in the interest of the state. Citizens do not surrender their First Amendment rights by accepting public employment.

Mr. Anthes stated that in his opinion, if employees are not doing it on Town time or equipment, then it is a separate issue.

Mr. Rosiello stated the social media policy has been a debated issue with the IT

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Committee. He stated there was a citizen at a meeting who was an IT professional and had some good input. While the committee was discussing it, the individual who works for the State suggested they need to have a statement on this issue in their policy. Mr. Rosiello stated they did so and a policy was generated from other town policies as submitted by this individual. Mr. Rosiello stated that even with a policy, some things do come under civil suits by going beyond that in terms of slandering, defacement, harassment and other things. Mr. Rosiello stated they need to understand that there is freedom of speech but are also limitations to the freedom of speech.

Selectman Bickford stated the problem with it is the information is being put out there as an official of the Town. He stated this page is a tool for electioneering and is being run by people who are wearing uniforms, Town employees and referred to comments made by individuals on the page. Selectman Bickford stated he believes it violates the Ethics Policy, section 2A, VII and it also violates the Personnel Policy and needs to be disciplined. He stated it needs to be sent to the Town Attorney. Chair Swenson asked who he is referring to disciplining. Selectman Bickford stated it is obvious who is writing this, Police Chief Bernier.

Selectman Jarvis stated that when the Town of New Durham Facebook page came up, Town Administrator Bourgeois had several communications with Town Counsel and also with Facebook and it comes down to the fact that Facebook does not disclose who sets up a page.

Mr. Rosiello stated the only way to find out is to launch a civil suit for Facebook to stop the page. Selectman Bickford stated it is also electioneering and a misdemeanor under RSA 659:44-A. Chair Swenson asked who performed this alleged misdemeanor. Selectman Bickford replied he believes Police Chief Bernier did and he gets that from the picture on the Facebook page. Selectman Jarvis stated she does not see a single post or comment from Police Chief Bernier. Chair Swenson concurred.

Mr. Rosiello stated that in order to find out who wrote it, they need to go through a civil suit with a lawyer and if anything wrong is found to be taking place, then who ever wrote it has to remove the page or face a fine. He stated you can't assume it is someone otherwise you can be liable for a civil suit.

Chair Swenson stated that in his opinion there is a more unethical page which is called the Town of New Durham Facebook page, but all of them need to be treated according to the policies, which are still awaiting legal input. He stated that until the point where they understand the legal standing and there is a policy in place, he doesn't think there is a way to do anything else.

Selectman Bickford stated he is formally making a complaint that this is a breach of ethics and wants Police Chief Bernier questioned about this. Chair Swenson suggested Selectman Bickford start with the Ethics Committee. Selectman Bickford replied he doesn't need to do that, as it then goes to the Board of Selectmen and he is here presenting it to them now.

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Mr. Anthes suggested the Board of Selectmen send a letter to Police Chief Bernier and state this is a violation of electioneering and see if that will clear things up before going further. Chair Swenson clarified that there has been no determination that there is a violation of anything but Selectman Bickford is registering an ethics complaint and there is a process that will be gone through. Chair Swenson stated anything beyond that would be inappropriate until they have more facts.

Selectman Jarvis suggested that if Selectman Bickford wants to go forward, he needs to make a formal complaint in writing, cite the various documents supporting his claims and with that complaint, submit documentation that this site is being run by a particular employee. She stated she can't investigate something unless she knows for sure someone is the author of a site.

Chair Swenson asked Town Administrator Bourgeois to look at the process to confirm how this will be handled.

Public Input

Mr. Anthes stated his concern is about being careful when hiring people and properly screening them to protect citizens and the Town from liability.

Other Business

Chair Swenson stated Town Administrator Bourgeois developed a final draft for the IT Request for Proposal of Maintenance Services and is looking for any additional input in order to mail it out next week.

Chair Swenson stated the Town Clerk and Board of Selectmen received a letter dated August 11 from Town Administrator Bourgeois to notifying them that in accordance with the New Hampshire Solid Waste rules, New Durham is filing an application with the Department of Environmental Services for a Type IB Permit Modification to Solid Waste Management Facility. Town Administrator Bourgeois explained this was developed by CMA Engineers to reduce the amount of reporting for the closed landfill, so they can do it once every two years instead of every year.

Welfare Officer – COMSTAR & Welfare Loans

Selectman Jarvis made a motion to enter into nonpublic session, pursuant to RSA 91-A: 3 II (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. Chair Swenson seconded the motion. Chair Swenson stated the purpose of the non-public session is to discuss the ambulance and welfare amounts due. Motion passed, 3-0.

Roll Call Vote: Chair Swenson- Aye, Selectman Jarvis – Aye, Selectman Bickford – Aye. The Board of Selectmen entered into non-public session at 4:36p.m.

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Approval of Minutes

July 28, 2014 Non-public Meeting: Edits were made. **Selectman Jarvis made a motion to approve the minutes as amended. Selectman Bickford seconded the motion. Motion passed 3-0.**

July 30, 2014/August 1, 2014 Public/Non-public Meeting: Edits were made. **Selectman Jarvis made a motion to approve the minutes as amended. Selectman Bickford seconded the motion. Motion passed, 3-0.**

August 4, 2014 Public Meeting: Edits were made. **Selectman Jarvis made a motion to approve the minutes as amended. Selectman Bickford seconded the motion. Motion passed, 3-0.**

Adjourn

Selectman Jarvis made a motion to adjourn the meeting. Selectman Bickford seconded the motion. Motion passed, 3-0. The meeting was adjourned at 6:15p.m.

Respectfully Submitted,

Jennifer Riel, Minute Taker