

**NEW DURHAM BOARD OF SELECTMEN**  
**New Durham Town Hall & Fire Department Community Room**  
**March 9, 2015, 12:00 p.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:**

Chair David Swenson  
Selectman David Bickford  
Selectman Theresa Jarvis

**Also Present:**

Jeremy Bourgeois, Town Administrator  
Corky Mork, Videographer  
Sarah Foynes, Girl Scouts Leader  
Rudy Rosiello, Resident  
Greg Anthes, Resident  
Kevin MacCaffire, Interim Fire Chief

**Call to Order**

Chair Swenson called the meeting to order at 12:00p.m.

**Selectman Jarvis made a motion to go into non-public session, pursuant to RSA 91-A: 3 II (a) – the dismissal, promotion or compensation of any public employee or the disciplining of such employee & (c)- matter which, if discussed in public would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine or other levy, if based on inability to pay or poverty of the applicant. Chair Swenson seconded the motion. Roll Call: Selectman Jarvis – Aye; Selectman Bickford- Aye; Chair Swenson- Aye.**

The Board of Selectmen left public session at 12:05 p.m. and entered into non-public session in the second floor conference room of Town Hall.

Chair Swenson resumed the public portion of the meeting at the Fire Community Room at 2:09p.m.

Chair Swenson stated that while in non-public session the Board of Selectmen reviewed an evaluation for a Town department head. He stated decisions were also made relative to personnel issues in the Fire Department.

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**Appointments/Announcements**

Sarah Foynes, Girl Scout Leader for New Durham's two troops, stated she is looking into setting up cookie booths at the Transfer Station. Ms. Foynes stated the troop decided they want to do two projects with the money they raise. These include a community service project to build a garden that will directly benefit the food pantry and an overnight trip to a museum. She stated almost all the supplies except fencing have been donated for the garden project. Ms. Foynes stated they are hoping that if they are able to set up a cookie booth at the Transfer Station they will be able to raise enough funds to do both projects.

Chair Swenson asked where the garden is to be located. Ms. Foynes replied it will be adjacent to the Old Meeting House and they have been working with Cathy Allen on this. It was asked how large the garden would be. Ms. Foynes replied they are thinking about 20'x20'.

Chair Swenson asked if the Town has precedence for this type of activity. Selectman Jarvis replied they have done it in the past and the Transfer Station is a popular location. She stated the groups usually come before the Board of Selectmen, speak to Joe Bloskey about the request and the group is also required to notify the Police Department and Town Hall of the plans.

Ms. Foynes stated she is hoping to do four different dates, Sunday, March 15 from 10:00-12:00; Sunday, March 22 from 12:00-2:00; Saturday, April 4 from 1:30-3:30 and Saturday, April 18 from 1:30-3:30.

Selectman Jarvis asked what there would be for adult supervision. Ms. Foynes replied it would be herself and the other co-leader. They follow the Girl Scout's child/adult ratios. She stated there would only be four girls at the booth at a time.

Selectman Bickford stated he is concerned with using the Transfer Station for solicitation. He stated if they do it, he doesn't want to authorize more than one day at a time so they can see how it works and how Joe sets it up. Selectman Bickford stated he wants to be careful about how they go forward. Chair Swenson asked Ms. Foynes if they have looked at other locations. Ms. Foynes replied they are having a booth set up at the Country Store and Johnson's Marketplace. She stated it is hard for the Girl Scouts because they aren't allowed to go outside of their own town. Chair Swenson stated he shares Selectman Bickford's concerns in Town property being used for fundraising organizations.

Selectman Jarvis stated she is on the Board of Directors for the Food Pantry that has been the beneficiary numerous times with the Girl Scouts' fundraising efforts.

Selectman Jarvis suggested it would come under the special events license application. Chair Swenson clarified the Town doesn't have any guidelines relative to the use of Town property for fundraising organizations' use. Selectman Jarvis stated she recalls

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allowing a group, possibly the Boy Scouts, to set up a booth at the Transfer Station in the past.

**Selectman Jarvis made a motion to approve the Special Event Application submitted by the Girl Scouts of New Durham to sell cookies at the Transfer Station on the dates listed, contingent upon Town Administrator Bourgeois receiving approval from the Foreman and Police Chief in regards to any traffic issues that could occur, along with submission of the Troop's insurance policy. Chair Swenson seconded the motion for discussion.** Chair Swenson stated there is a concern the request is for a large number of dates. Chair Swenson asked why four dates were requested. Ms. Foynes replied their selling season is short and they are not allowed to sell cookies after April 30. It is the Troop's biggest fundraiser. Selectman Jarvis asked Ms. Foynes if there was any discussion of having morning and afternoon hours on the same dates. Ms. Foynes replied she had not considered that but agreed she can work with that. Selectman Bickford asked if other troops and towns use transfer stations. Ms. Foynes replied it is common for small towns because there are so few businesses. Selectman Bickford suggested trying one date first. Chair Swenson stated there seems to be a lack of policy on the use of Town property for non-profits and asked to have it added to the agenda for a future meeting. Chair Swenson asked Ms. Foynes to choose just two dates. Ms. Foynes replied March 22 and April 4.

**Chair Swenson amended the motion to have only the dates of March 22 and April 4, 2015 as part of the approved dates, recognizing that it does not set a precedent for future use of Town properties but the Town Administrator will look at other towns' guidelines to develop a policy on it. Selectman Jarvis seconded the motion. Motion passed, 3-0.** The times on the application were also changed to reflect three hours per date. Selectman Bickford reiterated that this is on a trial basis. Chair Swenson and Selectman Jarvis confirmed they need to see what other towns and organizations have for policies on this issue.

**Public Input**

Rudy Rosiello, resident, stated that at the last Board of Selectmen meeting he made comments relative to the Fire Station bid. *The Baysider* reported those comments were made by Mr. Bonanno. He stated he wants to be sure the Board of Selectmen meeting minutes are accurate.

Mr. Rosiello stated that in terms of comments made at the last meeting by Chair Swenson regarding outsourcing, other towns are doing this but that doesn't mean it is appropriate. He suggested identifying and thoroughly evaluating the long-term impacts of outsourcing jobs in Town.

Chair Swenson replied that relative to *The Baysider*, an individual has written to the paper indicating there is an issue with the comments.

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Chair Swenson stated that perhaps Mr. Rosiello is taking his comments out of context. Chair Swenson stated that what he said was other towns are doing it so they can look at the models to see if it fits. There is no need to “reinvent the wheel.”

Selectman Bickford stated they have been trying to get information so they can evaluate outsourcing.

**Agenda Review**

Selectman Jarvis added under Old Business: Election coverage.

**Department Reports**

No department heads were requested to be present.

**Town Administrator’s Report**

**Annual Town Report**

Town Administrator Bourgeois stated the Annual Town Report is now available at the Town Hall, Library, General Store and Post Office as well as online.

**NH DOT**

Town Administrator Bourgeois stated he has spoken with an individual at the New Hampshire Department of Transportation regarding speed limits and he willing to meet with the Board of Selectmen. He was unable to attend today’s meeting but Town Administrator Bourgeois will work it out a time for him to come to another meeting. Chair Swenson stated he would like both the Road Agent and Police Chief to be present as well.

Selectman Jarvis stated she has been contacted by several citizens who are very interested in the issue of speed limits, particularly with wanting lower limits. She suggested there be proper notification when the representative from NH DOT will be present at the meeting.

**Town Clock**

Town Administrator Bourgeois stated the individual contracted to work on the clock came in last week, and will be in again this week to continue working on it. It is not fully functional yet but is in the process.

**Streetlights**

Town Administrator Bourgeois stated he has an updated list of streetlights. This was distributed and reviewed. Town Administrator Bourgeois stated he is trying to get an additional map as well.

Town Administrator Bourgeois stated he spoke with the Co-op representative and as long as there isn’t a lot of work that needs to be done to the pole, they will swap out the old lights for LEDs for no cost. He stated he hasn’t received a cost from Eversource (PSNH) yet.

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Town Administrator Bourgeois also included for review a list of the lights the Board of Selectmen voted to shut off in 2008. Chair Swenson asked why the lights were shut off to begin with. Selectman Bickford replied they didn't see a need to justify the costs.

The list of streetlights was reviewed and discussed. It was agreed to discuss this further at the next meeting.

**Old Business**

**Speed Limit Ordinance**

Chair Swenson stated they have already discussed having the NH DOT representative present for the next discussion. Selectman Jarvis noted they also have to have a public hearing.

**Wage Study**

Town Administrator Bourgeois stated a draft agreement was sent and asked if the Board of Selectmen had any more discussion. It was clarified there was no motion to authorize the Chair to sign the agreement.

**Selectman Jarvis made a motion that should the Wage Study Agreement be funded at tomorrow's vote, the Chair is authorized to sign the agreement with Thornton and Associates of Scarborough, ME. Chair Swenson seconded the motion for discussion. Motion passed, 2-1. Selectman Bickford opposed.**

**2015-2016 Health Insurance**

Town Administrator Bourgeois stated he met with an independent insurance representative as well as the AFLAC representative and believes additional time is required to look at some other options. He stated SchoolCare is coming in next week to discuss whether they have any alternatives that could work in the new system being discussed.

Selectman Jarvis asked if Town Administrator Bourgeois has had an opportunity to speak with the vendor that originally presented this in regards to how healthcare practitioners can get into the program network so employees can continue with them. Town Administrator Bourgeois replied that is why he is looking at other options. If they could get a plan with SchoolCare through Cigna it would be the same network. He is still working on it.

Greg Anthes, resident, asked when the end date is for the current coverage. It was noted the end date is June 30 but they are required to provide 45 days notice so a decision has to be made by May 15.

Selectman Jarvis suggested looking into what the notice is under the Affordable Care Act with changing providers, whether it is 30 or 60 days.

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Town Administrator Bourgeois stated the Board of Selectmen may want to consider looking at what the amount of the insurance buyout would be.

**Fundraising Policy**

Chair Swenson stated at the last meeting they reviewed a draft and this has now been reviewed by legal counsel.

The input and edits were reviewed and discussed.

Selectman Jarvis suggested looking at what the Town's procedure will be in accepting funds from an organization that does not fall under this policy. She explained the Meeting House has a group that brings funds into the Town for the Meeting House.

Selectman Bickford stated there is a statute where funds over \$10,000 have to be voted on to be accepted.

Chair Swenson clarified funds that come in through fundraising activities, the Town Finance Officer administers, tracks and deposits the funds. It was noted that where the funds are deposited determines who votes on expenditures.

Selectman Jarvis stated she is happy with this policy so that when money is brought in, the Finance Officer and Treasurer know exactly how it needs to be handled.

Chair Swenson clarified any motion made today will be contingent on the RSA being properly cited.

Chair Swenson summarized the additional edits to be made.

**Selectman Jarvis made a motion to approve the Town of New Durham Fundraising Policy draft dated March 6, 2015 as amended at the March 9, 2015 Board of Selectmen meeting. Selectman Bickford seconded the motion. Motion passed, 3-0.**

**Town-Owned Properties**

Chair Swenson stated today was the deadline for individuals to express interest in the properties.

Chair Swenson proposed reviewing those properties that there is serious interest and reasonable offers on.

Chair Swenson clarified that the approved process was to offer the land to abutters for taxes, interest and any other costs the Town has relative to that property. There was no stipulation on lot size. Selectman Bickford stated they had a condition of undersized lots and merging. Selectman Jarvis replied the condition they had was in selling properties to abutters was they had to agree to merge the lot or lots into their current lot. Selectman

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Bickford stated it would be corruption if they don't attempt to get the most market value out of a lot.

The lots were reviewed and discussed.

Town Administrator Bourgeois stated he has a response from the Municipal Association and summarized that once the town has properly obtained the property, the town is the owner of the property and may do what it wishes with the property, subject to the right-of-redemption.

**Chair Swenson made a motion to approve Map 209, Lot 102 & 104 to accept the full price, that is taxes plus interest in the amount of \$5,267.59 with the understanding that it is as-is, and to be merged with the abutters' existing lot. Selectman Jarvis seconded the motion.** Selectman Jarvis stated she wants in the letter making it clear that "as-is" means the Town will not be staking out the property. **Motion passed, 3-0.**

Selectman Bickford stated the only reason he voted for it was it is a fair price for a merger.

Chair Swenson summarized the information for the property at Map 235, Lot 041. It has a price of tax plus interest in the amount of \$26,704.01, and an assessed value of \$42,200. It was noted this property was the only remaining lot with a reasonable offer. Chair Swenson stated all other lots would be going to auction. Chair Swenson asked Town Administrator Bourgeois to pursue the auction opportunity aggressively.

Selectman Jarvis stated the abutter has indicated they would be interested in purchasing at the price of \$26,704 but are awaiting financing.

Selectman Bickford stated that this property is next door to the deputy tax collector and believes that there will be a lot of objection from the public if they don't put it up for auction. He stated it doesn't look good. It is a viable house lot and has premium value.

Selectman Jarvis stated when this was discussed back in November and December, they looked at it like all of the other lots in offering lots to abutters. She stated at that time she had no knowledge of who the abutters were. Selectman Jarvis stated what she understands Selectman Bickford to be saying is that because the abutter is a Town employee they should be treating it differently. Selectman Bickford replied it is because the property is a full size house lot.

Chair Swenson stated he feels they handled this property equally with the others. He suggested postponing a decision on this property in order to contact the Town Counsel for comment on the position that this property cannot be handled equally to the others. Selectman Jarvis stated she also wants to be clear that the vote was made to sell the property before she had any knowledge that the abutter was a Town employee. She stated

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her goal was to get the property back on the tax rolls. Chair Swenson stated he doesn't see why someone has to be penalized because they are a Town employee and an abutter.

Selectman Bickford stated it isn't penalizing anyone but it is a strange plan to sell the properties and they discussed selling only the undersized lots to abutters. He stated that is not being done now. Selectman Jarvis stated she sees nothing saying they were only going to be selling undersized lots to abutters.

Mr. Rosiello asked the area where this lot is located, does Selectman Bickford sell water to lots in this area. Selectman Bickford replied he is not required to supply water in that area. Mr. Rosiello asked if this could be a potential conflict of interest from a business perspective. Selectman Jarvis asked if the abutter has a business relationship with Selectman Bickford and if they were to purchase the lot would it then be a potential for business loss to Selectman Bickford. Selectman Bickford replied it would in no way disrupt his business with the purchase of the lot.

**Election Coverage**

Chair Swenson stated in the March 2 public portion of the meeting they discussed the guideline that two selectmen be present for the election. The Town Clerk has indicated she wants to be sure this happens.

Selectman Jarvis stated that since that time, she has been asked to have a write-in campaign which she has done. She stated that given the written abuse that Selectman Bickford took unfairly on Facebook because he was fulfilling his selectman's duties at the November elections, she doesn't feel she should be present in the election area.

Selectman Bickford stated there is current legislation to allow designees to fill in for selectmen. He stated he understands peoples' concerns but according to the Attorney General, the selectmen's job is to watch the Moderator.

Selectman Jarvis reiterated she thinks it inappropriate for her to be there.

Police coverage was also discussed. It was confirmed there would be coverage at the polls.

Mr. Anthes stated he is also running for selectman. He stated he doesn't have a problem with Selectman Jarvis being there. Selectman Jarvis replied there are contingencies in the Town that criticize what elected officials do. She stated Selectman Bickford was inappropriately chastised for fulfilling his responsibilities in November and she sees no reason to subject the Board of Selectmen or herself to getting dragged into something if it can be avoided.



## **New Business**

### **Society for the Protection of NH Forests Letter**

Chair Swenson stated this is in regards to the Clarke Property that was tax-deeded to the Society for the Protection of NH Forests. He stated the letter requests confirmation that the Town has assessed the land's natural resources as well as potential liabilities, specifically hazardous waste. Selectman Jarvis stated she is not aware of anything. Chair Swenson concurred and confirmed with Town Administrator Bourgeois that they have not been notified of anything.

### **Current Use Letters**

Town Administrator Bourgeois stated these letters are required by the Department of Revenue Administration, to be sent every five years to owners with property in current use to confirm they are eligible to remain so.

The letters were reviewed and signed by the Board of Selectmen.

### **Noise Complaint**

Chair Swenson stated they received a letter regarding the noise produced by the Fish & Game gun range. He stated the individual is asking the Board of Selectmen to address the issue, which Chair Swenson stated was done at a meeting about eight months ago. Chair Swenson stated there have been no changes in State regulations since that time. Selectman Bickford stated the legislature is working on something for muffling guns. He stated that unfortunately the State also requires a \$200 licensing fee for mufflers.

Selectman Bickford noted the individual who wrote the letter lives a mile away from the range.

Selectman Jarvis stated their recent research showed the range is grandfathered with regards to the noise and there isn't anything that can be done.

Chair Swenson summarized their response to the complaint would be there have been no changes in statute since the last response.

Mr. Rosiello stated that he lives about a mile from the range and he does hear gun shots. He stated there is a large open area of land in the area of Old Bay Road, and the noise doesn't always seem to be coming from the range. Mr. Rosiello suggested there may be another source of the noise.

Selectman Jarvis stated that she too has heard gun shots while in her yard and it is certainly not coming from the range.

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**Right-To-Know Law Seminar**

Chair Swenson stated there is a one-day informational seminar from the NH Municipal Lawyers Association. If a member of the Board of Selectmen wants to attend they must inform Town Administrator Bourgeois.

**Building Inspector/Code Enforcement Officer Interviews**

It was noted the last day for the current CEO is March 13 and he is willing to fill-in until the position is filled.

After discussion it was agreed to schedule the interviews at a later date.

**Public Input**

Greg Anthes, resident, stated he hopes every resident of New Durham votes tomorrow. Selectman Jarvis concurred and stated she hopes to see a lot of absentee ballots with the change to SB2.

**Approval of Minutes**

Meeting of February 2, 2015 – Edits were made. The minutes will be reviewed again after additional edits are completed.

Meeting of February 25, 2015 – Non-public Session: No edits were made. **Selectman Jarvis made a motion to approve the minutes as written. Selectman Bickford seconded the motion. Motion passed, 3-0.**

Meeting of February 25, 2015 – Public Session: Edits were made. The minutes will be reviewed again after additional edits are completed.

Meeting of March 2, 2015 – Non-Public & Public Sessions: Edits were made. **Selectman Jarvis made a motion to approve the minutes as amended. Selectman Bickford seconded the motion. Motion passed, 3-0.**

**Chair Swenson made a motion to go into non-public session pursuant to RSA 91-A: 3 II (a) – the dismissal, promotion or compensation of any public employee or the disciplining of such employee; and (c)- matter which, if discussed in public would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. Selectman Jarvis seconded the motion.** Chair Swenson noted this is to discuss the Performance Evaluation of the Finance Officer. **Motion passed, 3-0.**

**Roll Call: Selectman Jarvis – Aye; Selectman Bickford – Aye; Chair Swenson – Aye.**

The Board of Selectmen went into non-public session at 4:57p.m.

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**Selectman Jarvis made a motion to unseal the January 12, 2015 Board of Selectmen non-public meeting minutes. Selectman Bickford seconded the motion. Motion passed, 3-0.**

**Selectman Jarvis made a motion to unseal the portion of the August 13, 2013 Board of Selectmen non-public meeting minutes session #2 in regards to tax deeded property. Selectman Bickford seconded the motion.**

**Chair Swenson made a motion to amend the motion to be contingent upon legal opinion that only that portion can be unsealed, leaving the remainder sealed. Selectman Bickford seconded the amendment. Amendment passed, 3-0. The amended motion passed, 3-0.**

**Selectman Jarvis made a motion to leave non-public session. Selectman Bickford seconded the motion. Motion passed, 3-0.**

The Board of Selectmen returned to public session at 6:23p.m. The Board of Selectmen finished the meeting at the Town Hall due to the Fire Community Room being used for Fire Department training.

While in non-public session the Board of Selectmen reviewed a performance evaluation with the Finance Officer and unsealed some non-public meeting minutes.

**Selectman Jarvis made a motion to adjourn. Selectman Bickford seconded the motion. Motion passed, 3-0.**

Meeting adjourned at 6:24p.m.

Respectfully Submitted,

Jennifer Riel, Recording Secretary