

# TOWN OF ORFORD

Board of Selectmen

Meeting Minutes

April 26, 2023

MEMBERS PRESENT: John Adams, Jen Carter Chase Kling

OTHERS PRESENT: Esther Dobbins-Marsh, Jason Bachus, Steve Williams, Jo-Anne Fratus, Ruth Hook, Road Committee Members: Charlie Smith and Herb Austic

## Call Meeting to Order

The meeting was called to order at 5:30 p.m.

## Approval of Minutes

- *Motion made by Adams, seconded by Kling to accept the minutes of 04/12/2023 (as amended) Motion Passed 3/0*
- *Motion made by Adams, seconded by Carter to accept the minutes of 04/19/2023 (as amended) Motion Passed 3/0*

## Reports

- A. **Assessor**-The assessor submitted his report for April stating he is working to update data based on the inventory forms returned indicating changes to the property.
- B. **Police Department** – Chief Bachus presented his March activities to the Selectboard. There was a total of 113 calls for service (NHSP responded to 4). The remaining calls consisted of 27 public service/administrative calls, 2 animal complaints, 9 agency assists, 1 motor vehicle crash and misc. other calls. There were 64 motor vehicle enforcement actions, with 7 summonses issued. Calls for service occurred as follows: Between midnight and 8:00 am=8, between 8:00 am and 4:00 pm=84, between 4:00 pm and midnight=21
- Investigative cases are starting to increase again. Bachus is currently working on a sexual assault investigation, an ID fraud investigation, and 3 criminal investigations. Due to the Thetford-Lyme bridge being closed starting April 27<sup>th</sup>, Bachus will be working early mornings to cover Route 10 and Bridge Street due to the anticipated increased traffic. The Piermont Chief will assist as needed, and will be on patrol Friday April 28<sup>th</sup> from 3:00 pm – 6:00 pm. Bachus has placed the speed cart on Route 10 as another tool to help control vehicle speed. Bachus applied for a grant to cover the purchase of a handheld radar, and received the grant approval this week. The grant will cover the cost of the unit 100%.
- Finally, the old PD cruiser has been “de-commissioned” with all police equipment and markings removed. The headlights were repaired by the Orford Service Center as well. Per NADA, the trade-in/resale value is between \$7,500 and \$10,000. The current mileage is 103,205. The highway department had requested the Selectboard consider transferring that vehicle to the highway department vs selling it. After a brief discussion, the Selectboard agreed to transfer the vehicle to the Highway Department.

*Motion was made by Kling, seconded by Adams to transfer the 2015 Interceptor from the Police Department to the Highway Department. Motion Passed 3/0*

The Selectboard asked Bachus about his Facebook (FB) page and if it's an open page. Bachus said his page is open to all, and all have access to comment. He feels comments are useful as some are asking for clarification or providing feedback on postings. Bachus uses it as an official page for the Orford Police Department for providing information to the Town.

- C. **Road Committee Project discussion** – Charlie Smith expressed his frustration over comments made by Adams at a prior meeting regarding the wicking fabric he had provided to the Town. Smith said the use of the fabric had been discussed several times, and said it will benefit the Town and the condition of gravel roads when used properly. Smith said he's personally put in over 100 hours trying to help the Town with road issues. Adams said the suggestion was to use the fabric on the Upper Baker Pond road and the Selectboard had not discussed a specific location for its use. Adams did apologize to Smith for offending him with his comments – it was not his intention. Kling would like to discuss where to use the fabric with existing projects as the Highway department won't have time or funds to use on a new project. Smith asked who the Road Committee should discuss road issues with – the Selectboard or the Road Foreman? (Selectboard) Smith would like a work session with the Selectboard to discuss how to use the fabric, and other projects the Road Committee can work on. The Road Committee also wants to verify their mission statement. The Selectboard agreed for Jennifer Carter, Charlie Smith, Herb Austic and Steve Williams to meet on Thursday April 27<sup>th</sup> at 3:00 pm to review future projects for input from the Road Committee. Williams said Erin Darrow, Engineer for the Archertown Road Hill project wants to have a meeting with the Selectboard – Dobbins-Marsh will see if she can attend a meeting on the 3<sup>rd</sup> of May at 5:30. If she can't attend on that date, the Selectboard will schedule a work session with the Road Committee. Williams said he'd like to un-post the roads. *Motion made by Kling, seconded by Carter to un-post the weight limits on the Orford Town roads. Motion Passed 3/0*

D. **Selectboard attended committee mtg recap**

- Planning Board (PB) – the PB accepted the Mountain View engineering report as requested as meeting the requirement for the PB street plat approval of an existing accessway off a Class VI road. Carter said she will request the PB submit an approved Final Plat Notice to the Selectboard for review.
- Parks & Playgrounds (P&P) – Carter attended the P&P meeting. Due to low membership, during Green-up day, current members will be asking residents if they might be interesting in serving on the committee. Currently there are only 2 members.
- UV Ambulance – Adams said they have added staff to support an increase in calls. The service is divided into 2 sections – emergency calls and transfers to and from hospitals. Recently they contracted with the VA to provide transfer services, which is one reason for the increase in transport services.

## Old Business

### A. Update of Outstanding Projects

- Archertown Road Rebuild Project – Jo-Anne Fratus addressed her concern about tree removal along her property abutting Archertown Road, and tree removal in general as it pertains to the project. Williams met with Fratus to examine the trees along her property line. He explained the Town has the right to remove trees in the Right of Way, at which time she asked for confirmation of where the ROW falls on her property. Fratus also expressed her concern that a surveyor was on her property without her being notified. In addition, after the surveyor left she found a dozen or so trees and limbs that had been hacked down. Fratus feels the Town is putting the cart before the horse – the Town should first know where the ROW falls, meet with abutting property owners to discuss the project, then mark the trees to be removed. Fratus wants her arborist to review her trees to determine which ones should be removed, if any. Williams said in a prior meeting it was decided the trees along Fratus' property don't need to be removed, as her property abuts the Archertown Road Flat – the priority is for the hill. Fratus said she agrees the Archertown Road needs work, but requests the work is done purposely, diligently and thoroughly.
- Diesel Tank Installation – Adams will work with Dobbins-Marsh on this project.
- Archertown Bridge at Jacobs Brook – Adams spoke with the abutters to this project and they gave a verbal approval for the easements. There are a few requirements the abutters will want as part of the easement, and Adams will work with them. There is some concern on how vibrations from the work on the bridge might impact houses near the project, which will also be addressed. The Selectboard agreed the plan could be submitted to the NHDOT for their review.  
*Motion made by Adams, seconded by Kling to authorize DuBois & King to submit the design to the NHDOT. Motion Passed 3/0*

**B. Waste Water/Septic Issues – Prettyman Road Class VI section** – the Selectboard had requested a meeting with Tiffany Vance but due to a schedule conflict she could not attend. Per her email, she indicated the plan for the Class VI section of Prettyman Road is the same as the one she had last year – using Chief's Crushing & Excavation to repair the road as their time permits. Kling said the road is impassable, and grey water disposal and a septic system also need to be addressed. The Town can revoke her permit to build on the property; we can also contact the NH DES for non-compliance. Kling will reach out to the co-owner, Vance's mother, and Vance to discuss the situation.

**C. McGoff Salvage license update** – Carter met with Deb & Jonathan McGoff to review the new application. The application will be submitted to the Town by the end of May, as a Public Hearing will need to be scheduled sometime in June 2023.

**D. Highway garage generator estimates** – only one estimate was received, verbally, for the project at \$11,739. The Selectboard will have Dobbins-Marsh request a written verification to the increase of approximately \$200 over the original estimate received in January 2023. In addition, Dead River will charge \$2800 to install the propane line from the generator to the Garage.

**E. Review "Employee Review" forms** – Carter will re-send a one-page review document to Dobbins-Marsh. Dobbins-Marsh will also list employees to schedule for reviews.

- F. **Other** – The NH DES has added staff and will be requiring inspections of the closed landfill annually (and possibly semi-annually), and completing a report to be filed with the DES. Currently the Town pays to have DuBois & King monitor the groundwater around the closed landfill. The inspection of the landfill will be in addition to the groundwater monitoring. DES is holding a training on what the inspection entails. To hire an engineer for the inspection will be costly. The Conservation Commission is review information to see if this is a project they can take on.

## New Business

### A. Complaints

- **Ruth Hook** filed a complaint for violation of her 1<sup>st</sup> Amendment Rights due to Fire Chief Straight's actions.

When and where did the action/activity leading to this complaint/comment/suggestion take place? - Date unknown, but as of March 23, 2023, I became aware that I had been BLOCKED from the Orford Fire Department's Facebook Page, a "Public Forum".

Describe your complaint/comment/suggestion. Include all observations that you made.

After listening to Wednesday night's Selectboard Meeting, 4/12/23, during the review of a Complaint registered by Janice Follensbee who had been blocked from the OFD Facebook page, I decided that I needed to register my complaint that I too was BLOCKED. I totally DISAGREE with Selectwoman Jennifer Carter's opinion that the OFD Facebook page is a personal page, not a "public forum". She talked about Business Facebook pages, but one cannot compare a Municipal Facebook page to a Business Facebook page. Business Facebook pages are another form of advertising as a Municipal Facebook page communicates information to the public to keep them informed. It needs to be noted that according to our 2023 Annual Town Report, at the top of page 2, listed is ORFORD TOWN OFFICIALS. Heading Include - ELECTED BY NONPARTISAN BALLOT ON TOWN MEETING DAY NOMINATED AND ELECTED FROM THE FLOOR ON TOWN MEETING DAY and APPOINTED BY THE SELECTBOARD. so for Jennifer to say that the OFD Facebook page is a personal page, you, the SELECTBOARD, have appointed FIRE CHIEF STRAIGHT as an ORFORD TOWN OFFICIAL which constitutes that this FACEBOOK PAGE is a "public forum", with or without a town policy in place, NOT a personal page. Also, Chief Straight uses this Facebook page to notify the public of any advisories such as Fire Danger High and updating the public with what is going on with the Fire Department that our taxes support. I also want to point out that during the conversation, Chief Straight mentioned that the OVFD Inc. Facebook page needed to be included with any Town Facebook Policy. We are a non-profit not connected to any form of Orford's Municipal Departments or Committee's. Thus if the Selectboard adopts a policy on Orford's "Public Forum" — Facebook Page, it does not apply to the OVFD Inc. I did hear, I don't know who, responded that the OVFD, Inc. was not a Town entity. I am the author of that website and I want it noted that the ONLY use for that page was and has been ONLY been for a way for the public to follow our Yearly ANNUAL FLEA MARKET information. I am reporting that I am not sure exactly the date, but I had been able to look at the Orford Fire Department's Facebook page prior to the March 22, 2023's appointment of Fire Chief Straight. When I went to check out the OFD Facebook page, a "Public Forum", on March 23, 2023, I received this message:

"This content isn't available right now - When this happens, it's usually because the owner only shared it with a small group of people, changed who can see it or it's been deleted."

Just to double check that I had been BLOCKED, I immediately contacted 2 friends, 1 from Norwich VT, the other from Lyme NH, to see if they were able to access the site. The result was they were able to sign on, so that confirmed that the site had not been deleted, but I had been BLOCKED. I also checked with a few of the other people who had signed the letter presented to the Selectboard March 10, 2023 in support of Kevin Follensbee and found others who had also been BLOCKED.

My letter to the Selectboard, dated March 12, 2023 stated my non-support for Chief Straight and my support for our previously OFD Captain, now Lebanon's retired Lieutenant, Kevin Follansbee, with 22 years' experience as a full time Fire Fighter. I had included with my letter attachments, (1) 2014 — 2022 Fire Fighter Membership history statistics using town records of the turnover of members since the 2014 appointment of Chief Straight, (2) a copy of an email from COVID-19 Vaccine Update for First Responded showing that 2 of the original Fire Fighter members from 2014 had been designated as Lowest Risk for exposure by your "Dept. Leadership" when other members with less experience had received their shots, (3) 3/11/2014 Warrant Article 13. Passed and yet according to the article, "firefighters appointed by the fire chief in accord with such personnel policies as may be adopted by the Selectboard" has not been established as during the 2022 BAC meetings with the Selectboard, when this issue was brought up, the answer was that the Board needed to work on this, (4) 4/13/2013 letter from the SB to the OVFD, Inc. with Fire Chief Job Description effective immediately and (5) an email dated 4/20/2014 to the SB Office, Sheri Clifford, asking why the SB would not acknowledge that they had a Job Description effective while Arthur Dennis was Fire Chief and after he resigned, there was no longer a Job Description. From the information I supplied, in my opinion, it contributed to me being BLOCKED from the OFD Facebook Page. This RETALIATION of being BLOCKED from the OFD Facebook page represents my Constitutional Rights for being denied access because of my opinion.

I did my research which I have listed below. According to the ACLU website, a "Public Official", which our Fire Chief is, cannot block people because of their opinion(s).

I want it noted that all the years that I have had access to the OFD Facebook Page, I never responded to any postings. I only used it to see what our Fire Department was up to along with following the Chief's Public Advisories, either postings from the State of New Hampshire to it's time to change your fire alarm batteries.

In my opinion, our Fire Chief is a "Public Official" who was appointed by the Selectboard for the Town of Orford and this RETALIATION a juvenile response, should be just cause to remove a "Public Official" who is a representative for the Town of Orford.

Attach any pictures or other documentation that supports your complaint/comment/ suggestion.

Rather than attach, I have documented the websites and documentation that supports my complaint below.

[www.aclu.org/news/free-speech/court-rules-public-officials-cant-block-critics-facebook](http://www.aclu.org/news/free-speech/court-rules-public-officials-cant-block-critics-facebook)

Court Rules Public Officials Can't Block Critics on Facebook

People also ask:

Can a public official block people from their Facebook page?

According to a federal appeals court, the answer is a resounding no. On Monday, the Fourth Circuit Court of Appeals ruled that the interactive portion of a public official's Facebook page is a "public forum," so an official cannot block people from it because of the opinions they hold.

Can a public official block a critic from a website?

The fact that the page exists on a website owned by a private company doesn't change that. That means that, when a public official blocks critics from the page because of their viewpoints, he/she violates the Constitution. Indeed, the right to criticize the government is at the heart of the First Amendment.

<https://www.aclu-wi.org/en/news/3now-vour-rights-social-media-blocking-publicofficials>

Is blocking always illegal on a site used for official government business?

Short answer: No.

Public officials can block comments that are not protected by the First Amendment, including comments that make a true and immediate threat to another person, incite others to imminently violate the law, or contain obscene language as defined by the U.S. Supreme Court. If the page was created specifically to discuss a certain issue (e.g. schools), officials are allowed to remove comments that are off-topic. But, if comments on a government site that praise the official or government agency on a particular subject are allowed, comments criticizing the official or agency on that same topic cannot be deleted or blocked.

Note: I have never made any comments on the OFD Facebook Page.

What can I do if I believe I have wrongly been blocked by a public official from social media used to conduct government business?

Step 1: Collect any information that shows the social media account is used for government business and proves that you were blocked, including screen shots.

Step 2: Contact the office of the elected leader or government agency and politely request that you be unblocked. You can include references to this flyer and/or the information collected in

- **Janice Follensbee** - Inaction by Fire Chief Terry Straight  
I, Janice Follensbee, am still blocked from the Orford NH. Fire Department Facebook page. You, the Orford Selectboard (SB), asked me to wait to confirm I had been unblocked until 0900 on 04/14/2023. I complied with the agreement made in the Orford SB meeting's non-public session. I waited to look on my Facebook account until after 0900. Unfortunately, Chief Terry Straight did not comply with what he said he would do in the Orford SB meeting's public session, which was to unblock anyone who he had blocked from the above listed Facebook page. Again at 0926, I did what I was asked to do, in the Orford SB meeting's non-public session, and called Orford SB Chair John Adams, at home, to advise of not being unblocked.

Chief Terry Straight's actions do not match his words. I feel, this goes on to prove a lack of integrity. I feel this shows his disdain for the leadership for this town. I feel, he has no due regard for laws and policies. I feel, he thinks he is above everyone. I feel, his lack of action shows his disrespect for the leadership of the Orford SB and the people of the Town of Orford, NH. I have lost all trust in Orford Fire Chief Terry Straight. I feel, there could be further loss of trust from the

community due to him not following through with his verbal commitment, which he stated in a public Orford SB meeting.

Just because the town has no policies, it does not mean that an act is not illegal or incorrect. Court rulings, in the past, have shown appointed and elected Government officials lose their rights to privacy once appointed/elected to their current positions when they operate social media in the name of municipal government. He is continuing to squash my first amendment rights, as my previous complaint entails. Please see the write-up from the ACLU below.

- **Janice Follensbee** - Intimidation Tactics  
*Chief Terry Straight, I assume, asked the three Orford Fire Department (OFD) members who were present to attend the 04/12/2023 Orford Selectboard (SB) meeting, in what I perceived to be a show of intimidation towards me and the Orford SB with the fact that the SB was going to be addressing my complaints that night. He had forewarning with being given my complaints ahead of time, for this meeting. Yes, two of the OFD members are Orford residents, so they had every right to be there. However, Assistant Chief Tim Hebb is not an Orford resident, so why was he there, if not for intimidation? Did you ask him to be present? Did you ask any of them to be present? They met in the parking lot before the meeting; I have no idea what to discuss. I do believe his actions, of having them present at that meeting, was nothing but an intimidation tactic.*
- **Lawrence Hibbard** – The condition of the Orford Sand Pit – someone left behind 40 shot gun shells, 6-8 coke cans, a bag of rotted meat, all kinds of targets and the gate unlocked.

The Selectboard will address this with the road crew to make sure the gate is locked nightly and on weekends.

**B. Policy Introduction – Social Media Policy** – the first draft was introduced, Selectboard members will review and discuss at a future meeting

**C. Review of received “Notice of Intent to Cut Wood”**

Property Owner: Theodore Eck, Map & Lot #008-024-069, Forester: Theodore Eck

Property Owner: Theodore Eck, Map & Lot #008-029-073, Forester: Theodore Eck

**D. Action Items**

- Lawrence Hibbard submitted his letter of resignation from the Parks & Playgrounds Committee. *Motion made by Adams, seconded by King to accept the letter of resignation. Motion Passed 3/0*
- Free Library mowing – the Free Library trustees notified the Town that they have their own mowing contracted and don't need the Town's contractor to mow there. Because the OFL is included in the Town's mowing contract, the Selectboard asked Dobbins-Marsh to determine what the Library pays their contractor. Lawrence Hibbard, who mows for the Town, also asked about mowing behind the Fire Station, as that land is owned by the Orford Volunteer Firefighters Association, Inc. Dobbins-Marsh will follow up with the Association.
- Rivendell Community Field contract – the Selectboard signed the new contract.

**E. Correspondence**

- NH DES Approved restoration plan for the Mud Turtle Pond road was reviewed by the Selectboard

- Jim Beaulieu, MVP Testing sent an email to introduce himself to the Road Foreman and offered to help clean up the sandpit that is often left with excess debris by users of the shooting range.
- An email was received asking if building and/or electrical permits are required in Orford – they are not
- The Conservation Commission was asked to look into being the go to for completing wetland applications. At this time, the members felt it wasn't a good use of their time, and there's often more required than just completing the application.
- NH DOT submitted the Inspection of Red List Bridges for 2022. Orford has two state bridges on the list – Baker Pond bridge and the Brackett Brook bridge. On the municipal red list Orford has the Archertown Road Jacobs Brook bridge and the High Bridge Road bridge.

### **Adjourn**

*Motion made by Adams, seconded by Kling adjourn the meeting. Motion Passed.*

The meeting adjourned at 9:05 pm

Respectfully Submitted,

Esther Dobbins-Marsh