

**TOWN OF DIXFIELD**  
**Minutes of Meeting**  
**Board of Selectmen**  
**June 30, 2008**  
**5:00 p.m., Ludden Library**

**Board Members Present:** Bettina M. Martin (Chair), Brad E. Dyer, Raymond E. Carlton, Norine H. Clarke and James L. Desjardins

**Administration Present:** Town Manager Thomas F. Richmond, Town Attorney Lee Bragg, Chief Richard A. Pickett, represented by Attorney Phillip Coffin and a number of residents

## Disciplinary Action Hearing – Police Chief Richard A. Pickett

The Disciplinary Action Hearing for Police Chief Richard A. Pickett was called to order at 5:00 p.m. by Board of Selectmen Chairman Bettina M. Martin.

1. **Executive Session 1 M.R.S.A. 405:** On a motion from Selectman Brad Dyer and a second from Selectman Raymond Carlton, the Board voted to enter into executive session at 5:00 p.m. to confer with the town's legal counsel.
2. The Board came out of Executive Session at 5:47 p.m.

3. The hearing reconvened at 5:50 p.m.
4. The Chairman reminded those present that Chief Pickett had requested an open hearing. The public could be present, but no public comments would be allowed.
5. Chief Pickett's counsel opened the hearing with his argument that Mr. Pickett was within his constitutional right to express his view. *(Transcription of Disciplinary Hearing inserted here.)*

**Disciplinary Hearing – Police Chief Richard A. Pickett  
(Tape Recorded Portion of Meeting)**

**Hearing Participants**

**Selectmen:** Bettina M. Martin (Chair), Brad E. Dyer, Raymond E. Carlton,  
Norine H. Clarke, James L. Desjardins

**Town Manager:** Thomas F. Richmond

**Police Chief:** Richard A. Pickett

**Attorneys:** Phillip Coffin Representing Chief Richard A. Pickett  
Lee Bragg Representing the Town of Dixfield

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**Chair Martin:** I need a motion to go into executive session.

**Selectman Dyer:** I make a motion we to go into executive session 1 M.R.S.A. 405 (6E).

**Selectman Desjardins:** I second the motion.

**Chair Martin:** Any comments? All in favor. Vote was unanimous.

**Chair Martin:** We'll go over there (Dixfield Town Office); you guys can stay here (Ludden Memorial Library). We'll be back in a little while. Okay.

**Chair Martin:** We reconvene this meeting. Before we begin, I would like to state that there will be no public comment. This is a hearing between the Board and our attorney and Chief Pickett and his attorney. You are welcome to stay and listen. We will be hearing no comments.

This disciplinary action hearing is being held to give you, Chief Pickett, the opportunity to answer charges to the letter you received June 12th. So do you have any comments?

**Atty. Coffin:** My name is Phillip Coffin for all of you who don't know me. I am representing Chief Pickett here. I have asked Mr. Bragg, as the town's attorney, for specifications in terms of what specifically is the theory by the Selectpersons as to the "insubordinate, accusatory toward members of the Board and that questions the competence of the Board"—it's not clear and says Member of the Board whether it's members of the Board plural or a typo or a member of the Board felt that Chief Pickett questioned the competence of that member of the Board. So I would ask first, if the town please in fairness to Chief Pickett, detail for him what the Selectpersons believe to be those charges.

**Chair Martin:** The call for disciplinary hearing was because Chief Pickett's behavior at Town Meeting on May 22nd was not acceptable

for a town employee. His remarks against the administration and the whole Selectboard constitutes insubordination.

**Atty. Coffin:** So it is the town's position that Chief Pickett has no right to speak at an annual Town Meeting about matters of public concern?

**Atty. Bragg:** Well, Phil, I don't want to turn this into you asking questions of the Board. To me, this is focused on the town meeting. There is a tape of that meeting—I don't know if you have seen it.

**Atty. Coffin:** I have seen it.

**Atty. Bragg:** Okay, and the Board was all there and the Chief was there obviously. It comes down to those comments. I don't think it's any mystery about the Board's concerns. I think this is an opportunity for the Chief to explain that conduct and explain his comments and if part of the explanation is that he felt he had the right to speak as a citizen, then I think he needs to say that or you need to say that on his behalf.

**Atty. Coffin:** I, I'm certainly going to let the Chief speak. I think it's important for the Board to understand that, you know, that these are matters these are actually weighty matters that go beyond just the Town of Dixfield. There is a clear precedence in our courts involving the rights of citizens in the community, and the Chief is one. He is a taxpayer, he's a member of this community. He has a right to speak.

On matters of public concern, the First Amendment of the United States Constitution guarantees him that right and in this particular case, his right to speak out about matters of public concern, which in this case are matters of the police budget and the matter of where you are going to have 24/7 police coverage or not potentially, depending on budgetary amount approved, whether or not that outweighed the town's interest in promoting some sort of efficiency in the public administration of government. And we can debate what happened at that town meeting, but I saw it, and I certainly saw nothing that was insubordinate or

accusatory towards members of the Board of Selectmen or questioned the competency of the Board.

But I am going to ask the Chief to address directly to you what his motivation was in speaking out or why he felt he needed to address that budget issue. Thereafter, as you may recall, he was asked to respond to questions from the public about what it would mean if certain things happened in the town.

**Atty. Bragg:** Before you do that, Phil, and I don't want to have turn this into opening statements by you and by me, or make this hearing all about you and me talking. So I'll try not to say a whole lot. You're in a little different situation and have an interest in saying a lot more than I do, I assume. But, I did want to comment on, in response to a couple of things you said.

There is a limit in an employee's ability to take off his employee hat and put on his citizen hat. I don't think that an employee, particularly a department head, can entirely divorce himself of their position under the guise of speaking freely as a citizen. Comments can be insubordinate and, public comments can be insubordinate and saying that they're made in that person's capacity as a citizen doesn't change that. I think it's for the Board to decide whether that line was crossed here. That's how I would frame the undertaking.

**Chief of Police Richard A. Pickett:** First of all, I would say this: at the town meeting, I don't believe anything happened there that has not happened at prior town meetings.

Prior town meetings I have been asked by the public to go up front and answer questions which I have done year after year, every year, and answered the questions to the best of my ability. People pay the bill, bills,--they asked questions, they wanted to know the difference between my budget and the budget requests that the Selectpeople put in front of them. When I say my budget, I should say our budget because the Town Manager helped me create the budget, and it was the

Manager's request. So that request was the one that I was sharing. I, when I got up there, and started talking, I wanted to make it very clear to the people what the consequences would be. That if they did not vote my budget in, there would no longer be any twenty-four (24) hour coverage, and we don't have to hash the whole thing all over, but explained all of that detail too.

And then I turned around after that and I told them that they were not saving any money because they weren't. I pointed that out. I don't believe anything I said was untruthful, and if it was, I would have thought and would think that one of you or more of you would have got up and would have said so if I had spoken wrong, and I would have respected that. I have no problem with respecting that. I don't, my purpose was not to insult you, my purpose was not to try to discredit you in any way. My purpose was because I am put in a very difficult position. My officers have no union. I'm all they have, but I'm also part of the management team. So I'm in a very difficult situation. Each and everybody here, I have come in, I have to speak on behalf of my department and my men for what we need to operate, so on and so forth...and I have to do that because they have no other voice to be able to get that taken as such as Public Works who has a union, so on and so forth.

So therefore, because of that, I'm put in that situation. And when I went to Town Meeting speaking on behalf of the men, I was speaking on behalf of the gentleman who stood their job after we had just hired them a short time before. I was also speaking on behalf of the residents of which we serve and letting them know what the consequences would be if indeed we no longer had twenty-four (24) hour coverage. And I in no way intended to offend anybody on this Board. I don't believe there is anywhere on that tape, and I know it was not my intentions at any time to ever point at any Selectman or even to you as a full board of Selectmen and say that you did this or you did that, or...I did not do that at all.

I talked with Mr. Richmond prior to the Town Meeting, that day of the

Town Meeting and explained to him my position, what I was going to say, and he knew what I was going to say. He didn't know every word I was going to say, but he knew what was going to be said. He never once told me "you can't say that, don't do that, you can't do it." That was never told to me. Ever. I didn't... just because I did not agree that the budget that you, as the Board of Selectmen, were putting as your request to the town, was the best for the town, that I as the Police Chief believed that the budget that I was putting forward was best for the town for coverage and also for keeping the man that we had just hired. And, in my opinion, as I said in the town meeting, also protecting the integrity of the town because we had just hired this man and all of us knew, everyone here, knew when we hired him that he was leaving a job, a full-time job with benefits, to come here, to come to work for us, and then a short time later we're getting ready to say well, I think times have changed, things have changed and I think that there was an integrity issue there. Not just with the Board of Selectmen, and I said that. Because I'm the one who stood and looked this man right in the eye and told him, there's not going to be a problem with the job, the fourth position is not going to be an issue this time. I discussed it with the Town Manager, I discussed it with the Board of Selectmen. It's not going to be an issue. I got their approval, a unanimous approval to hire you. So, me, the Town Manager who told me and the Board of Selectmen who told us, I was relaying that message to them.

So, I am in no way was trying to say that these people here were trying to do anything wrong. I was just trying to say we need to know to be informed. Have the information out on the table to make an informed decision. In a democracy, isn't that really what's it's about? People go to the poles and they vote on things, and they try to be informed to go and make decisions. And that was all I was trying to do. Like I have every other year, informed them when they've asked me questions, I've answered those questions. When they've asked me about this, I've answered what it is. If I don't have the answer, I get it or I make sure they get it after. I've done it every year, year in and year out.

So, again, I would just say that I honestly do not believe that I did

anything to be insubordinate. I did not, to me insubordination is when I give an order, and it's not followed. Then I'm being insubordinate. I was never given any order of what I could or couldn't say at that meeting. By any one. And I don't believe that I was disrespectful to the Board. And it says here about accusatory towards Board members. I don't believe I was accusatory towards Board members. I didn't say that they put together some big coup and was trying to do something. I never said that. I never accused them of anything. And I didn't question the competence of the Board.

I did make one statement that I believed in and that statement is that we are not in the position we're in today as a town. It didn't happen overnight. There has been some fiscal irresponsibility. But I did not point to you as a Board and say it was your fault. Some of you haven't even been on the Board long enough to be involved in that. I didn't say that. I was on the Board for five and a half years (5-1/2) years, and I take responsibility in that as well. We've made some mistakes along the way, and as all kinds of communities have done. And we've got to work towards correcting those mistakes. But my point was, you don't take a service such as 24-hour police coverage and cut that off the table. At least, that's my opinion that you don't when there's other things to look at to cut off instead. That was my intent that night to bring that information out to the people and ultimately the people make their decision.

That was my intent. I never intended in any way, shape or form as I said before, to insult, to try to talk down, or to accuse you of anything. And if I did, if that came across that way, then I apologize for it coming across that way. But I do not apologize for doing it. Because I do not believe I did it in any way, shape or form.

**Atty. Coffin:** Actually, it's hard for me to tell how to proceed here. One way to do this. I know that members of the public have been asked not to speak on their own, but I could call them as witnesses and ask them what their impression was, and I don't want to go through this unnecessarily and bring them all up here one at a time and say, "You

were at the meeting. What was your impression of what happened at that meeting? Do you think that the Chief was being insubordinate or yadda.” I can do that if the Board feels that it’s necessary, but without any statements or positions or comments from individuals on the other side of the page there, it’s hard for me see how to proceed.

**Atty. Bragg:** My thought on witnesses is that ordinarily in this type proceedings, you have witnesses—that’s because ordinarily there are facts in dispute. I don’t think calling witnesses for the purpose of having to give their impression of what happened at town meeting when there is a tape of town meeting and when all of the Selectmen witnessed it first-hand and had the opportunity to review the tape. I don’t think there is any purpose to be served by having other people give their impressions. It is really a matter of the impressions of the Board.

**Atty. Coffin:** Well, it is and it isn’t, Lee. I just wanted your opinion if we have to try to apply a reasonably objective standard to this not just, you know you have to say would a reasonably objective Selectman or Selectwoman under similar circumstances looking at this later on, would they consider this to be or if it were reviewed in court consider this to be termed sufficient to tip the scale on First Amendment rights against the Chief in favor of the town. Consequently, you would need outside witnesses that would aid in that evaluation.

**Atty. Bragg:** We agree essentially on that. I think that that, by and large, comes later. If there’s any discipline to be appealed. Which there may or may not be. But I think, the purpose of these proceedings, I don’t think it adds anything to the understanding of the Board. If you feel differently about that, say so, but I can’t imagine that it would add anything to the understanding of the Board about what happened and if it’s your intention to call witnesses, I guess make that request and then the Board will have to decide whether to allow it.

**Atty. Coffin:** Give me a minute to consult with my client.

**Atty. Coffin:** We’ve elected not to call a bunch of serial witnesses

because I would assume the Board might know what they might have to say. In any event, I guess I have one question for the Town Manager and that is that he heard the Chief's statement. Was there any order by the Town Manager to Chief Pickett, knowing whether they disagreed with proposed budget for him not to speak at Town Meeting.

**Town Manager Richmond:** That wasn't the issue. The issue went way beyond what was discussed in my presence.

**Atty. Coffin:** I guess we need clarification on that.

**Atty. Bragg:** You do care to expand.

**Town Manager Richmond:** I leaned over and I said to Brad when he said it, that I cannot remember the exact words, but it was printed in the paper on top of that that it was the irresponsibility and went in this direction to the Board that we are in a financial mess. I can't remember the exact words, but there was, I was very upset at the time it happened and I leaned over and I remember saying to Brad, "I can't believe he said that."

I can understand him doing the other argument for his help. That one there, got me.

**Atty. Coffin:** So the issue for you is this statement about the financial irresponsibility of past Boards—the town's past financial...

**Town Manager Richmond:** His statement is self-explanatory on the tape. If you watch the tape and see the reference, see the hand, it doesn't leave any interpretation other than that's the problem. It's obvious. I watched it. Arguing about the help, arguing about—I don't have a problem with all that. But I feel he went beyond what he had to say, and that's my opinion.

**Chief Pickett:** I guess the only thing that I would ask, is you're saying, you're saying that on the tape that I said and pointed to the Board and

said they were fiscally irresponsible.

**Town Manager Richmond:** I can't, I can't remember the exact words.

**Chief Pickett:** That's the word I used, fiscal irresponsibility. I used—that's the word.

**Town Manager Richmond:** And it was printed in the local paper and I thought, phew!

**Chief Pickett:** And you're saying that I pointed to this Board and said that they were fiscally irresponsible?

**Town Manager Richmond:** You went (waved arm) in that direction, leaning, and the motion's there. It's obvious.

**Chief Pickett:** I did? I watched that tape and I didn't see that in there at all.

**Town Manager Richmond:** If you want, I'll show it to you.

**Atty. Coffin:** The bottom line is that you've heard the Chief say it, I think, I do think before you vote, I ask you to consider your obligation to the First Amendment. I know you and I differ where the line lies, but this was matter of important public concern that there is hurdle that the town must get over where were you to take away a citizen's First Amendment rights and meet out discipline for exercising those rights. More importantly, as the Chief said, we all know how town meetings can be when difficult issues come up. Some people say things \_\_\_\_\_ engage in personal attacks that they shouldn't engage in and things can get heated. But it was not his intent as he states and testifies and stated here today. Being insubordinate was not his intent \_\_\_\_\_ of this Board. It was his intent to speak on matters that he thought were important for the public to know with respect to the budget then. To the extent that the Board thought he was acting insubordinately or was

rude or irresponsible towards the Board, that was clearly not his intent. I think you should take that into consideration.

**Chair Martin:** Does anyone on the Board have questions for the Chief?

**Selectman Desjardins:** I have no problem with the Chief defending his men, sticking up for his budget. I'm on the same line I guess as Tom. I was really taken back by the comment he made about some of us not being on the Board very long fits me. I don't remember the exact words you used, but I was kind of set back on that. I felt like it was kind of a slap in the face to us.

**Chief Pickett:** It was not intended to be and I really was not talking about you as a Board when I said that. And I have to disagree with Tom. Don't get me wrong. I'm not calling you a liar, Tom, I'm not. That's not what I'm saying at all but I have to disagree with you that I pointed toward the Board and said that they were fiscally irresponsible. Because I was talking about fiscal irresponsibility that got us into the position we are now. Fiscal irresponsibility. And I was not talking about this Board.

And you can look at the entire country today. Fiscal irresponsibility is why the country is in the shape it is in today. That's a statement that's used by a lot of different people in a lot of different ways.

And basically what's being said there is that you know, and if I remember correctly and I believe do because I've also reviewed that tape several times, what I was talking about is how I have been fiscally responsible with my budget because I was told, you told me, "You don't go over your budget this year." And I did not go over my budget this year because I heard you, I heard the people, and I did what I was told to do. I took it serious. Was it tough? Yeah, it was tough to do. But I did it because I was told that that's what I needed to do and that's what I did. And again, I apologize to all of you and Jim if that's what you really, truly felt. I apologize to you because that was not my

intent. I'm not just saying this to you to like a worm trying to get off the hook. That's not what I'm trying to do here. I'm trying to be honest here. I would not in any way, shape or form to say that any of you people were out-rightly as a board fiscally irresponsible. I think there's been some things over the years in the town, including myself, concluded that we could have done differently and we would not be in the situation we're in right now. But we're there, and we've got to deal with it. And I have to deal with the budget I'm given. I have to work with what I'm given and that was my point. I was given "X" amount of dollars last year and told this is what you'll work with. Do not go over. And I did. So I mean, I don't what else I can say other than that was my intent. My intent was never to accuse you of being fiscally irresponsible or to relate that you were as a Board fiscally irresponsible or you as the Town Manager. That was no my intent in any way, shape or form.

**Selectman Dyer:** My logic concern--You and I talked about this before the town meeting. We talked about my stand on it, your stand on it and I certainly agree with Tom and Jim and anybody about protecting your officers. They do need a voice there. The people in Dixfield need a voice. My concern—and I felt very concerned for you—because the tone of your voice, the volume of your voice, your facial expressions when you looked at the Board specifically concerned me. I started to feel like you were making accusations that we had done something, somehow inappropriate when it came to the position with the officer that we had hired recently and that we were concerned that somehow we were backing up on a position that we had taken about hiring that officer and then not hiring that officer and somehow it was done with intent. And even though that may not have been your intent, that's kind of what I walked away with. Frankly, kind of dumbfounded at the amount of energy you put into it that really seemed threatening towards above board as opposed to here everybody, here's why. Here's why we need to keep this department.

So I don't fault you for your passion around that. It is the delivery that made me walk away feeling like, geeze, I wonder what the people of

the Town of Dixfield are going to think about this Board and how responsible it's been. That's where my concerns lie.

**Chief Pickett:** My response to that would be, would be, Brad, that you're right. I did talk with passion because I do. And that anybody that has been to a town meeting that I've got up and spoke to knows that I talk with passion, and you and I did talk before town meeting, and you did agree with me, and you did agree you didn't think it was fair for Chuck for that situation to be happening with Chuck, and you were in full agreement. And that that was taking place. And again I didn't say anything that was a lie, I didn't say any untruth. I wasn't singling anybody out. I was just saying and when I talked about that I was saying about how I was shocked when I came back from vacation to find out that you, in particular at the meeting—the budget committee meeting—had talked to me and had said to me I want to thank you, Chief, for really working with us this year on the budget.

We all left that meeting feeling really good about it and stuff, and then I went away on vacation, and I came back and found out there was proposal for a man to be, to be reduced to three men. So I wasn't accusing you guys of coming up with a plot. That wasn't what I was doing. I was just saying that I just didn't feel it was right after hiring this person, it was right to follow through and do that. I didn't think that was right. As I said in my initial remarks, but I wasn't, I was talking with passion and I may have looked over toward the Board because the Board was the one who made that decision along with, I also looked over to the Finance Committee 'cause they made the same decision. And I, you know, I mean, I was talking to everybody there, including you folks as a Board of Selectmen, Finance Committee members that were up front and the members out in the audience. And, again, you know, I'm not going to apologize for talking with passion because when I'm really, when I'm talking about something that I really believe in, I talk with passion. And I think most people do if they really believe in something.

**Selectman Dyer:** I agree with the passion. I don't think that should ever be removed. Passion's important to have specific feelings around

something. I do think that the general public not having an insight into the meetings, generally they are not there, not knowing why the decisions are made initially to hire an officer. And then initially why the decision to potentially cut a position or to suggest to cut a position, walking away from that the impression for me was that—wow! I had better be ready tomorrow because people are going think that we did something that we shouldn't have done.

And again, my personal concern is around the tone of voice, your facial expressions. And if you look at the video, if can sit back and look at it objectively and put yourself in our position, that, that what we're feeling like, geeze, we look really bad right now, like we had made an inappropriate decision. And again, that was what my concern was. Not around your passion, not around what you were presenting for the budget or for your men. I want to clarify that.

**Chair Martin:** Are there any other Board comments?

**Selectman Desjardins:** I think basically what it amounts to is just that statement you made, Dick, and the way you stated it because nobody's going to, you know, say that you can't defend your men, you can't defend your budget. It's your budget. You proposed...you have a right to defend it. You have a right to ask for what you need. My basic concern with this whole thing is that statement. I'll tell you that right now. The statement you made, I agree with Brad, the way you made the statement. Everything just seemed very inappropriate. That's all I have to say on that.

**Atty. Bragg:** Anybody else?

**Chair Martin:** No.

**Atty. Bragg:** The Board will need to go into deliberations and at that point, I suppose the Board might still have questions of the Chief, but you should have an opportunity to finish your comments, I guess, or say that you're done.

**Atty. Coffin:** I don't want to repeat myself. I think the Board knows what our position is in this matter.

**Chair Martin:** Do we need a motion to...

**Atty. Bragg:** At some point I suppose any Board member can make a motion, but we're in the deliberation phase at this point. The Board needs to talk over what they've heard, and express their feelings and at some point make a motion.

**Selectman Dyer:** From a disciplinary perspective, where do we want to go, I think that's the question.

**Selectman Clarke:** I didn't have any questions, but I have a comment. I guess that I was not as offended by what was said. I was a little surprised at a couple of things you did say, but I accepted them as part of the passion you referred to for supporting your position and supporting your fourth officer.

I don't believe, this is a personal opinion, I don't believe that this is a fireable offense. I don't believe that this is, should mean your job. I understand that some people were offended, and I guess that's a personal issue for them just as it is a personal issue for me. I believe that there's some choices we can make: a reprimand, a day without pay, a week without pay, whatever the Board might decide as a whole because I may not be able to control that. Because I'm one person.

But I do feel that it is not, as I said before, a fireable offense. And I think the Board needs to make some decision based on how severe they think this was. I, as I say, was not offended by the remarks because I tend to be one that I am, have a position to say, I don't hold back. So it didn't occur to me that you had said anything that was out of the way. Having said that, that's my position, and I don't have a solution. Sorry.

**Selectman Dyer:** I would agree with Norine. I don't think we're at the level for termination. I don't believe it rises to that. I am concerned that events like this have happened in the past and it's an on-going issue

and that it does need some direction from the Board and Town Manager as to how to fix that. And I think that's, personally, I think that's a decision I think we need to make here tonight. Where does that go and what does that look like.

**Selectman Carlton:** I make a motion we terminate the Chief.

**Selectman Desjardins:** Terminate his appointment?

**Selectman Carlton:** Yes.

**Selectman Desjardins:** I'll second that motion.

**Chair Martin:** We have a motion not to re-appoint Chief Pickett. Is there any more, any other discussion?

**Selectman Dyer:** I am concerned that that motion is not—I understand the concern. That's your opinion, but I don't know if that's the right motion for the Board. I just want to have that be said.

**Selectman Clarke:** I would prefer that a different motion be passed.

**Selectman Dyer:** But discipline is necessary. What that is we need to decide, I think. I still don't think it rises to the level of termination.

**Selectman Carlton:** You just said it's been an on-going issue. This isn't the first time.

**Selectman Dyer:** It has, but how much coaching has happened. How much documentation has happened. That's my overall concern is, what does that look like.

**Chair Martin:** We have a motion and a second to not re-appoint Chief Pickett.

All those in favor:

Selectman Martin

Selectman Carlton

Selectman Desjardins

Opposed:

Selectman Clarke

Selectman Dyer

It's a vote. I'd like an adjournment, please.

*End of Hearing – Selectmen's Meeting Reconvenes*

6. On a motion from Selectman Brad E. Dyer and a second from Selectman Raymond E. Carlton, the Board voted unanimously to adjourn at 6:30 p.m.

Respectfully submitted,

Thomas F. Richmond  
Town Manager

/tfr