

DRAFT

**NEW DURHAM BOARD OF SELECTMEN
New Durham Town Hall/Fire Department Community Room
Monday, April 21, 2014, 1:00 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:

Chairman David Swenson
Selectman David Bickford
Selectman Theresa Jarvis

Also Present:

Jeremy Bourgeois, Town Administrator
Jennifer Riel, Minute Taker
Jim Ladd, Videographer
Kevin MacCaffrie, Fire Chief
Dorothy Veisel, Chair of Ethics Committee
Laura Zuzgo, Welfare Officer
Brian Desfosses, NH Department Environmental Services
Steve Doyon, NH Department of Environmental Services
Marc Behr, Resident
Bob Kroepel, Resident
Ellen Phillips, Resident
Kevin Ruel, Resident
Scott Weeden, Resident

Call To Order

Chair Swenson called the meeting to order at 12:00pm at the Fire Station Community Room.

Chair Swenson made a motion to enter 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; (b) – the hiring of any person as a public employee; (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. 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 & (e)- Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled.* **Seconded by Selectman Jarvis. Roll Call: Chair Swenson - Aye; Selectman Jarvis – Aye.**

The Board reconvened at Town Hall at 12:05 pm.

Selectman Jarvis made a motion to seal the portion of the minutes pursuant to RSA 91-A:3 II (e). Seconded by Chair Swenson. All in favor. Motion passed unanimously, 3-0.

Selectman Jarvis made a motion to leave nonpublic session. Seconded by Chair Swenson. All in favor. Motion passed unanimously, 3-0.

The Board returned to public session at 12:59 pm and reconvened the meeting at 1:03pm at the Fire Station Community Room. Chair Swenson opened the meeting with a moment of silence in remembrance of the victims of the Boston Marathon bombing of last year.

Chair Swenson stated that while in non-public session, the BOS discussed the status of litigation, interviewed a candidate for the position of Town Treasurer, reviewed the Tax Collector's contract, and reviewed the minutes of the non-public meetings of March 21, 2014 and April 7, 2014.

Public Input

Chair Swenson stated that on April 19, 2010, the BOS adopted a one-page statement relative to public input and while the time limits are not necessarily something that should be strictly adhered to, it is a guideline as the meetings are under a time constraint. Chair Swenson stated that it is certainly encouraged to have public input and if there is something that should be considered more, it may be addressed with the Town Administrator. Chair Swenson stated there were comments that went over time at the last meeting and he felt a need to address it.

Marc Behr, resident, stated he has been a member of the Fire Department for over sixteen years and his wife has been a member for around four years. Mr. Behr stated that they received a letter dated April 8, 2014 from the Interim Fire Chief notifying them that their "services were no longer needed" and that they were terminated as of that date. Mr. Behr stated that in his termination letter, the Interim Fire Chief stated that Mr. Behr "had not made any calls, attending training or made any attempts to do previously assigned duties or activities to support the department." Mr. Behr stated that this is not true, and referred to the call stats showing that he made a call on February 6 and most, if not all of the calls in January of 2014. Mr. Behr stated that he received paychecks from the Town on February 20 and March 6, both indicating that he did some work for the Fire Department during that time. Mr. Behr proceeded to explain the accusations given in the termination letter and stated that they were not true. Mr. Behr acknowledged that he and his wife have been members of the Alton Fire Department for over a year however there have been no problems between the departments since that time and confirmed that neither he nor his wife have filed applications with any other fire departments. Mr. Behr went on to outline the personnel policy of the Town, which requires notice prior to termination, as well as the SOG requirements with regards to responding to calls. Mr. Behr questioned if

the decisions to terminate he and his wife were truly in the best interests of the Town and stated that he would have expected his termination letter to come from the BOS and therefore does not consider the letter he received from the Interim Fire Chief to have any merit. Mr. Behr requested a public hearing with the BOS. Chair Swenson acknowledged Mr. Behr's request for a public meeting and stated a meeting would be scheduled according to the Town policies. Mr. Behr asked for clarification as to whether he is terminated or not, and asked if that was on hold until public input was received. Chair Swenson stated that no, he requested a public hearing based on an action and it would be looked at when a public hearing could be scheduled, and that until that point, a decision cannot be made. Selectman Bickford replied that he feels the answer is no, as the SOGs and personnel policies are in conflict however the personnel policies trump the SOGs. Selectman Bickford reminded the BOS that this had been brought up at the last meeting and he had stated that the policies needed to be looked at. Selectman Jarvis stated that she has been looking into it and is still going through the minutes to find out what has been documented as far as going forward. Selectman Bickford wants to know which rules take precedent. Chair Swenson reiterated that nothing could be done until a public meeting has been held.

Ellen Phillips, resident, stated that she has been a resident of New Durham for thirty-six years, and a teacher in the New Durham public school for twenty-three years. Ms. Phillips stated that as she has been very busy in past years with other activities and such, she never ran for any boards or volunteered for committees. Ms. Phillips stated that recently she asked to be nominated for the Ethics Committee. Ms. Phillips stated that she was very disappointed when she was not approved and felt that it reflected upon her ethics and her reputation when Selectman Bickford did not vote for her to be on the Ethics Committee. Ms. Phillips asked Selectman Bickford that if there was a problem with the Ethics Committee that he wanted to look at, why would that affect her being appointed to that committee. Selectman Bickford replied that in her report in the Annual Town Report, it was stated that the committee had provided council and guidance to several individuals with a potential ethical concern or practice. Selectman Bickford stated that there must be some problems out there if several people have had to go to the committee and so he had asked TA Bourgeois to look into what was going on, and stated that he has yet to get any answers that anyone came to the committee. Ms. Phillips asked why Selectman Bickford chose not to appoint herself, someone who has never had a problem with an ethics violation or anyone in this Town, and asked why her ethics must be at question if Selectman Bickford did not vote to appoint her, and stated that she should not be kept from being on the committee because he has questions about the rest of the committee. Ms. Phillips feels that it dishonored her to not appoint her when there is nothing that can be said about her or her ethics by wanting to help out the Town.

Dorothy Veisel, Chair of the Ethics Committee, stated that her question for the BOS is whether this is a BOS generated action in the investigation. Chair Swenson replied no and to his knowledge, the BOS has not taken any action to officially ask anything of the Ethics Committee. Ms. Veisel stated that regarding the inquiries for a list of names, she responded to that request however gave a piece of misinformation as she initially interpreted it as being from Town Meeting to Town Meeting and not a calendar year.

Ms. Veisel stated the other inquiries came from a Fire Truck carrying a campaign sign, and three people asked her if that was ethical, and that was taken back to the committee and used as an educational opportunity. Ms. Veisel stated that another Ethics Committee member was approached about the ethics of confidentiality in the Town survey, a long discussion ensued, no names were mentioned and the individual only took information back. Ms. Veisel stated that there was an instance where a Town employee asked for a non-posted, conceptual meeting for discussion about a potential ethical violation and did not even want the meeting held in the Town for fear of retaliation. This meeting was not posted and no minutes taken, and there was a guided explanation of the ethics policy. Ms. Veisel stated that the decision to formalize that complaint or to even codify it as a complaint, rests with the person making the inquiry. Ms. Veisel stated the Ethics Committee does not have any binding powers, are not judges and does not issue any statements on the merit of inquiries and is only counsel and guidance. Ms. Veisel stated that she gave her word of honor that the person's name would not be divulged and reiterated that she would not do so. Selectman Bickford stated that no one asked her about her clandestine meetings on the side and Chair Swenson clarified that no clandestine meetings were referred to. Selectman Bickford stated that the only thing asked of her was how many people came before the committee and names, and asked why she wouldn't give a list of names of those who have gone before the Committee with inquiries. Ms. Veisel stated that she couldn't divulge that information. Chair Swenson agreed that it is not appropriate for the names to be divulged. Selectman Jarvis asked whether there was a quorum of the Ethics Committee present and was it during a meeting when this inquiry took place. Ms. Veisel replied that it was a one-on-one meeting and went on to explain that it can be a verbal request or a formal written request. Selectman Bickford asked again how many individuals came before the committee. Ms. Veisel replied that as a body and committee, it was one. Selectman Bickford replied that is not what the statement in the Town Report says. Ms. Veisel stated that she would feel that it is unfair if she put it out there that people need to come to a public meeting and put their name out there in the minutes when bringing forward a question of ethics.

Chair Swenson called the time for public input as over, and welcomed Ms. Veisel to put something on a future agenda. Ms. Veisel stated that if there are questions and concerns, they are open and transparent and asked the BOS to come to the committee meetings.

Agenda Review

Chair Swenson stated that he has five items to add to the Agenda before moving on to Appointments/Announcements including Fulfillment of Warrant Article 11, reminder that a public hearing is scheduled for May 5 for the Fee Increase, Town Meeting Minutes Availability, Review of the Dam Site, Tax Collector Contract Approval, and Library Painting Update. Selectman Jarvis added under Treasurer New-Hire review of the draft job description, and under New Business, School Impact Fees. Selectman Bickford added Discussion of the Lawsuit from Chief Varney under Old Business.

Fulfillment of Warrant Article 11

Chair Swenson stated that the Town has fulfilled the Warrant Article 11 that was voted on at Town Meeting, and the letter has been sent to the described recipients, and was done within the time guidelines specified. The letters were sent to President Barack Obama, Congresswoman Carole Shea-Porter, Senators Jeanne Shaheen, Kelly Ayotte, State Senator Sam Cataldo, State Representatives Robert Perry and David Bickford, and were dated April 9, 2014 and mailed out the same week.

Public Hearing for Fee Increase

The meeting is scheduled for May 5, 2014, 7:30 p.m. The main point will be the fee for the Wetland Permit going from \$15 to \$18, based on costs for the Town.

Town Meeting Minutes Availability

Chair Swenson stated that the minutes of the Town Meeting are now available for public review.

Review of the Dam Site

Steve Doyon and Brian Desfosses, representatives from the State Dam Bureau presented a draft emergency action plan. Copies of the draft plan as well as maps were distributed and reviewed. Mr. Desfosses stated that this plan involves reconstruction of the Jones Pond Dam and dike located in Middleton and Brookfield, in the southwestern portion of the pond, and if it were to fail, the dike would be classified as a significant hazard dam. Mr. Doyon stated that the Department of Environmental Services has an agreement with Fish and Game to not only do dam related reconstruction but are also operating and maintaining Fish and Game dams of which this is one. Mr. Desfosses explained that a significant hazard dam could cause damage to things such as a state road and damage to structures and stated that they expected this meeting to have been noticed to the public for more public input and information. Chair Swenson stated that if there is a press release or statement from their Department, they would review it and post locally. Mr. Desfosses stated that for clarification, this is in regards to Jones Brook Dam and not Jones Dam, which is located on Merrymeeting Lake, and is located between Brookfield and Middleton. The maps that were distributed were referenced to explain the location of the dam, the direction of the water flow and the exact location of the structure. It was explained that one dam goes towards Middleton and is high hazard and the dike section is a significant hazard, which means if it were to fail, it would inundate at least one house. Mr. Desfosses stated that the State requirement is to have an emergency action plan that is held by the State, the Town, DOT and the first responders so everyone impacted will know how to respond in the event of a failure and stated that whenever a public dam is being built or rebuilt, a public meeting needs to be held. Mr. Desfosses went on to explain the potential damages and impacts in the event that the dam fails. Mr. Desfosses stated that the crews are ready to be working on the reconstruction this year and have already started grooming the road. It may be a couple weeks before the work on the dams begin and will be wrapped up by October. Chair Swenson asked if they anticipated any major issues and for an explanation of the worst-case scenario. Mr. Desfosses replied there are no major issues anticipated and that it will be completely reconstructed with reinforced concrete. Copies of the draft emergency action plan were left for first responders to review as well as for public review.

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Selectman Bickford asked about the Marsh Pond Dam and its need for re-facing. Mr. Doyon stated that he would look into it and get back to the BOS. Selectman Jarvis asked if it needs to be done again, are there any requirements as to who can do the work. Mr. Doyon replied that he would need to look into it but if it was just a bad batch of concrete and the dam needs rescaling, any contractor can do the work as long as it isn't something significant. Selectman Bickford stated that in the past he has asked to have the water levels drawn down in rainy seasons. Mr. Doyon replied that in some cases, even lowering the pond in advance of a rain event does no good but if there are benefits to doing so however, they could look into seeing whether or not it is something that would be helpful to anyone. Mr. Doyon stated that sometimes more harm can be done to a dam when lowering the level than perhaps having raised it.

Appointments/Announcements

Interim Fire Chief Goals

Chair Swenson asked for comments on Interim Fire Chief MacCaffrie's first draft of his *Short Term and Long Term Goals*, as requested in the *BOS Goals for the Interim Fire Chief*, and stated that he has some suggestions in changes. Chair Swenson stated that he would change the wording in Short Term #7, from "establish" to "explore"; Short Term #8, define what the tools and equipment is; Long Term #4, asked if this is going to be a budget item and Fire Chief MacCaffrie replied "no". Selectman Jarvis asked if in regards to Short Term #11, if the apparatus check is eliminated after a return to the station and Fire Chief MacCaffrie replied that this is above and beyond the regular checks and can give a good idea of what is getting worn and what needs to be replaced. Selectman Bickford asked if there is a need to add something about a search for a permanent fire chief under the Short Term Goals. The BOS agreed to add Short Term #13, "Establish a process and search for the appointment of a Fire Chief." Fire Chief MacCaffrie stated that he has already compiled the necessary requirements and evaluations.

Selectman Jarvis asked what the current status is of the FCC application for the Town's own frequency. Interim Fire Chief MacCaffrie replied that he is currently working with a contractor and they are looking at the licensing procedures and identifying frequencies available, and he is looking into getting grants as well. Discussion ensued regarding shared resources and the collaboration of communities in obtaining equipment that can service the surrounding areas, and the cost savings to towns when participating in regional planning.

Chair Swenson stated that the submittal by Interim Fire Chief MacCaffrie, which was reviewed, was in fulfillment of goal #4 of the *BOS Goals for the Interim Fire Chief*. It was agreed by consensus that the request has been met, as amended.

Interim Fire Chief MacCaffrie submitted a list of positions open for promotions within the Fire Department and requested that the BOS vote to approve the positions so that he can fill them appropriately. Chair Swenson clarified that these have not been approved by the BOS at any time in the past. Selectman Jarvis stated that as a point of information,

when the regulations were done the last time, the officers had requested that the position of EMS lieutenant be eliminated. She stated that she was not in favor of that but the majority of the BOS at the time was in favor of doing so and it might require minor changes in regulations to revert back to having an EMS lieutenant. It was agreed that this position be removed from list. After discussion and clarification of the positions, **Chair Swenson made a motion to approve Interim Fire Chief MacCaffrie's request to post and fill promotional positions within the Town of New Durham Fire Department for deputy chief, captain, and 2 lieutenants, to be filled by eligible members of the New Durham Fire Department through the Town's promotional process. Seconded by Selectman Jarvis. All in favor. Motion passed unanimously, 3-0.**

Welfare Guidelines

Copies of the Welfare Office's *General Assistance Guidelines* were distributed and show edits made late last year. It is presented before the BOS to make decisions regarding suggested edits. Changes and edits were reviewed and agreed upon.

Selectman Bickford asked for clarification as to how the process for vouchers works. Laura Zuzgo, Welfare Officer, explained the process, which begins, with her creating a voucher with her signature authorizing it, which is then sent to the vendor and after confirmation of purchase, Vickie processes the payment.

Selectman Bickford questioned why calls made on the weekend to the Welfare Office are routed through the Police Department. Ms. Zuzgo replied that protects her from putting her private phone number out there, and Selectman Jarvis stated that in the event that the Welfare Officer changes, the guidelines would need to be updated to reflect a new phone number.

Ms. Zuzgo previously distributed copies to the BOS of the bill RSA 167:27 and attached to it was a letter from the Disabilities Rights Center. Selectman Jarvis stated that while the legislature passed the bill as permissive legislation where communities can decide whether they want to follow it, the DRC says that there is no choice, and communities must accept applicants pursuant to the Americans with Disabilities Act, and the DRC states it would take legal action if communities choose not to accept. Ms. Zuzgo asked that the BOS determine whether APTD and OAA are acceptable, in accordance with the new State law that went in effect on January 1, 2014. Selectman Jarvis clarified Ms. Zuzgo's recommendation to accept applicants on APTD and OAA as long as they meet financial criteria. Selectman Jarvis proposed rewording of the eligibility requirement, "*Applicants receiving payments from OAA and APTD shall be eligible for general assistance so long as they are found otherwise qualified for local welfare.*" All were in agreement of the wording.

Selectman Bickford asked for clarification as to the requirement stating that a job search application form "shall" be provided and asked if there are instances where it would be inappropriate to expect a job search. Ms. Zuzgo replied that the exceptions are clear and there are clarifications listed further on that outline the requirements of household members. It was agreed to maintain the current wording.

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Selectman Jarvis stated that currently car payments are not considered a “need” when determining eligibility. Ms. Zuzgo asked the BOS to reconsider this guideline as more and more towns are accepting vehicle payments as a “need” expense, because in order for many people to get a decent vehicle, they are having to finance them, and people need the vehicles if they are going to be able to get employment or continue in their current job. Selectman Jarvis asked if there are any guidelines for maximum allotments for this and Ms. Zuzgo replied that she has started to do some research and will get back to the BOS on that but from what she recalls the national average may be about \$265. The BOS agreed that a limit needs to be established with regards to vehicle expenses including financing and insurance. Selectman Jarvis proposed the rewording of *“one car payment per month shall be included as part of the “need” when determining eligibility or the amount of need. The maximum amount of the car payment shall be \$xxx.xx.”* Ms. Zuzgo will do more research before the amount can be finalized and will do the same for auto insurance, which she stated might be a little more difficult to determine, as there are more variables.

Selectman Bickford stated that he doesn’t want the wording of the Food Pantry as being a “collaborative” effort as it has caused problems in the past and the Food Pantry is a non-profit organization, not managed by the Town. Ms. Zuzgo stated that it the first place she directs people to, to save on costs for the Town through vouchers. After discussion, it was agreed that the rewording would state *“The Welfare Office strives to provide the recipients of local assistance with food through referring clients to relevant organizations such as the non-profit New Durham Food Pantry.”*

Selectman Jarvis asked that if an individual is a victim of domestic violence and goes to a shelter in another town, are they still the responsibility of New Durham. Ms. Zuzgo replied that yes they are, and while she can make the calls, recommendations and direct individuals somewhere, they are still the responsibility of the Town.

Selectman Jarvis confirmed that the Municipal Work Fair Program is something that is new for the Town of New Durham. Ms. Zuzgo stated that it is something that the Town used to do but it has not been done since the late 1990s and asked if this is a program that the BOS is willing to reestablish. Chair Swenson asked Ms. Zuzgo to outline the positives and negatives of such a program. Ms. Zuzgo stated that she has had many requests from individuals asking if there is a way that they can work to pay back their debt, as there are individuals who simply cannot make financial payments back to the Town but may have a few hours that can be put towards the payback. Ms. Zuzgo stated that it is a way for the Town to recuperate monies that would probably not be recuperated otherwise. Ms. Zuzgo gave many suggestions of different ways that individuals could fit into the program and the departments where their time could be used. Selectman Bickford stated that while it is a tricky program to coordinate, he thinks it is a good plan. Chair Swenson stated that there are two issues that need to be looked at including insurance liability and workers’ compensation coverage. Ms. Zuzgo stated that there are RSA guidelines addressing insurances, and it is a decision of the BOS as to whether to provide workers’ compensation. Ms. Zuzgo stated that she would confirm both the legal

requirements for insurance and the costs for general liability and workers' compensation, as well as whether claims by program participants will affect the Town's insurance.

Selectman Bickford questioned the addition of Fair Hearing Procedures as being necessary. Ms. Zuzgo replied it needs to be there as it explains that the process will be handled professionally, and without it, there is no guarantee to applicants as to how it would be handled. Chair Swenson agreed that from a legal standpoint, it does need to be included. Ms. Zuzgo will get information of what other town's have relative to welfare guidelines and will provide all the information requested at the next BOS meeting.

Department Reports/Issues

No department heads were present.

Town Administrator's Report

TA Bourgeois stated he has no report unless there are any questions by the BOS. Selectman Bickford stated that relative to the Ethics Committee investigations and him having asked TA Bourgeois to look into that, as well as looking at the departments and workloads of employees, asked the other members of the BOS if it is appropriate for these to be addressed now. Selectman Jarvis replied they have asked the department heads to do specific reviews and comparisons to other like communities and stated that she would like to see the results from that information first. Selectman Bickford stated that sharing of workloads also need to be looked at and asked if anyone has an issue with asking TA Bourgeois to go forward with asking those questions. Selectman Jarvis stated that she is concerned with the amount of hours that it would take at the present time as there are a lot of items that are midstream right now and noted that Amy is transitioning into Assessing which is going to take some of the burden off of the Financial Officer but this time is the height of the current use requests, the elderly exceptions, etc. Chair Swenson stated that from his point of view, it is an appropriate Town Administrator task and within his administrative duties.

Old Business

Gun Policy

Chair Swenson stated that this was brought up at the last regularly scheduled meeting and there is a town policy, *New Durham Prohibited Practices in Municipal Buildings Policy*, effective July 1, 2003. However since that time State law, Chapter 159:26 *Firearms, Ammunition, and Knives; Authority of the State* was passed and went into effect. Chair Swenson stated that in summary, the ordinance states that the State of New Hampshire has the authority and jurisdiction over the sale, purchase, ownership, use, possession, transportation, permitting, taxation or other matters pertaining to firearms, knives, etc., and the towns do not. Under the recommendation of the State's attorney and the NH Municipal Association, the Town needs to rescind the July 1, 2003 policy and abide by the State law. In light of the change in statute and under the guidance of the NH Municipal Association, **Selectman Jarvis made a motion to rescind Town Ordinance 03-016, Prohibited Practices in Municipal Buildings. Selectman Bickford seconded the motion.** Discussion: Chair Swenson clarified that this motion would be consistent

with current State law and Selectman Jarvis stated that it would ensure that the Town is in compliance with State law. Mr. Kroepel asked if it will now be permissible to carry firearms in town buildings and Selectman Jarvis replied that the State law says it cannot be prohibited. **All in favor. Motion passed unanimously, 3-0.**

2015 Reevaluation Contract

Chair Swenson stated that he has several suggested changes and modifications to the first draft of the contract documents that were distributed and reviewed. TA Bourgeois explained that it is a draft contract from Vision that was compiled from DRA guidelines. Changes and corrections were made to the draft contract:

- 2.1.2 – the RFP defined the public relations program and it needs to be stated in this section.
- 2.1.6 – reference is made to an abbreviation “COD” without identifying what it means.
- 2.1.17 – in accordance with the RFP, requirements for the informal hearings need to be specified.
- 2.1.22 – add a point stating that the Town will be provided with a schedule of task performance by location.
- 2.2.1 – needs to include a listing of all the work to be completed.
- 2.2.3 – add a statement in that the evaluation is not viewed as complete until the DRA has accepted all the results.
- 2.3.1 – needs to include a list of the personnel.
- 2.3.4 – specify that the DRA certified assessor supervisor shall be on-site not less than 30% of the time.
- 2.4.1 – add approval by the BOS before release.
- 2.6.1 – a late fee needs to be determined.
- 2.6.1.2 – add a point to include DRA approval of evaluation results.
- 2.6.2 – defined services need to be listed in contract rather than Appendix B.
- 3.5.1 – add posting to the Town website.
- 3.6.1 – remove the per diem charge as it is already stated in the contract.
- 4.2 – period referenced needs to be specified.
- 8.3.1 – add that a copy of the Public Liability Insurance certificate shall be forwarded to the Town of New Durham.
- 8.3.2 - add that a copy of the Automobile Liability Insurance certificate shall be forwarded to the Town of New Durham.
- 8.4 – replace all references of “Municipality” to “New Durham”.
- 9.2 – not applicable.
- 11.2 – not applicable.
- Appendix B – remove.

Selectman Jarvis stated that she would like to see all assessing employees wear name badges with photo identification. This will be added as a clause under 2.3. Chair Swenson stated that in regards to the payment schedule, to add that payments will not exceed x%, from a cash flow point of view. The contract will be finalized and approved at the next meeting.

BOS Goals – Responsibility

Chair Swenson stated that the BOS Goals were reviewed and approved last month and stated that with his experience, goals are met when people have accountability. Chair Swenson stated that while all members of the BOS are responsible for the goals collectively, he distributed a list of his suggestions for the BOS members responsible for each of the eleven goals as a way to systematically review the goals. Chair Swenson asked for comments and suggestions. Selectman Bickford stated that he is willing to help out with the SB2 and a point of that is going to be establishing a timeline. The responsibilities assignments were agreed upon by consensus.

DES Inspection of Solid Waste Facility

Chair Swenson stated that this policy is in response to the August 2013 State inspection at which point it was indicated that DES requires all Solid Waste Facilities to have a closure plan in the event that closure is required. A draft of this policy was reviewed and edits were made. **Selectman Jarvis made a motion to approve the Closure Plan for the New Durham Solid Waste Facility/Transfer Station as amended at the April 21, 2014 meeting. Selectman Bickford seconded the motion.** Discussion: Chair Swenson suggested that a third set of eyes review the final document before submission. **All in favor. Motion passed unanimously, 3-0.**

Library Painting Update

TA Bourgeois will follow-up with the Building Inspector.

Discussion of the Lawsuit from Chief Varney

Selectman Bickford asked if it is appropriate to ask for an update and as to who is paying for the lawsuit. Selectman Bickford stated that he has not heard anything since the first meeting a while back but has seen a letter that was posted on Facebook from Primex. Chair Swenson clarified that the Facebook page is not an official page of the Town of New Durham. Selectman Bickford asked if there is any new information from the insurance carrier as to whether they will or will not cover the Town. Chair Swenson replied that he is not aware of any of that communication. Selectman Jarvis stated that there have been two letters received from Primex and TA Bourgeois will provide copies of the letters to Selectman Bickford. Selectman Bickford asked Chair Swenson if they are going down the road that the Town is financing the lawsuit. Chair Swenson replied that he is of the opinion that it is not an either or but is mixed.

Selectman Bickford stated that he wants to discuss the termination issue. Selectman Bickford states that he feels confident that the personnel policy overrides the SOG and if there is confusion, he wants to send it to the Town Attorney for clarification. Selectman Jarvis replied that she is still going through her notes but she believes that the Interim Fire Chief did previously come before the BOS and explained what his plan was for personnel, and the BOS gave him permission to go forward with it. Chair Swenson stated that earlier in Public Input there was a request for a public hearing on this issue and suggested that a meeting time be established. TA Bourgeois will contact Mr. Behr to schedule. Selectman Bickford suggested clarifying the policies before going forward with a public meeting to address Mr. Behr's termination. Chair Swenson stated that he

has consulted NHMA and he was referred to RSA 154:5 regarding authorization of termination, which was discussed.

Selectman Jarvis asked Selectman Bickford if RSA 91:A had a change in which a board or committee could no longer discuss legal advice in non-public unless counsel is physically present or present via phone. Selectman Bickford replied that it was the legal part of it, not non-public and it was a New Hampshire Supreme Court decision not legislative. Selectman Jarvis stated that she thought a bill was introduced which would allow boards to consult written legal advice without having to have the attorney present and asked if he knew if it went anywhere. Selectman Bickford replied that it was in interim study and he doesn't think that it went further but it could be resubmitted next year for consideration.

Deputy Health Officer Position

Chair Swenson stated that Ken Quigley resigned from the position of Deputy Health Officer effective April 30, 2104 and asked for discussion. Selectman Jarvis suggested that if allowed by law, to do job sharing between officials from other towns and communities with this position. Chair Swenson suggested asking the Health Officer how often he needs the deputy and is it a position he feels is important to fill. TA Bourgeois will ask the Health Inspector how much he relies on the deputy position.

2014 Energy Costs – Negotiation of Prices

Chair Swenson stated that it is not too early to start working on getting prices for fuel oil, propane, diesel, etc. and asked TA Bourgeois to begin working on this early in the season and bring forward recommendations as to how the Town can get the best prices. Selectman Jarvis also suggested working with other communities to work on bulk purchases, in addition to consulting with the budget manager of a neighboring community where multiple towns and school districts are joining together for bulk purchase. Chair Swenson stated that he would like to have an update on this issue at each meeting going forward as they are fairly critical costs to the Town and he wants to ensure that they get the best prices possible.

BOS Communication Protocols – Emails from Residents

Chair Swenson stated that while communications and input between the BOS and residents are encouraged, he cautioned the BOS members that if members choose to respond to the sender, to not do a "reply all". This is under advice from legal counsel, as by doing so, it can immediately become a public document.

Warrant Article – Acquisition/Purchasing Schedule

Chair Swenson stated that there are a few warrant articles in which acquisitions were approved at Town Meeting. Chair Swenson asked TA Bourgeois to work with the various department heads to develop a plan as to when it can be expected to have purchase orders, acquisition requests, bids, etc.

Selectman Jarvis asked for an update with regards to selling scrap metals and the police cruiser. TA Bourgeois replied that the cruiser cannot be sold until it is replaced and the price of scrap metals is still down.

Town Treasurer Hire

Chair Swenson stated that during non-public session the BOS interviewed a candidate for the position and it was stated that the candidate met all of the qualifications that were described as necessary for the Town Treasurer. **Selectman Jarvis made a motion that the Town Administrator issue a conditional offer of employment for the stipend position of Town Treasurer, subject to the hiring policy including background and reference checks and an in-house financial review of the individual. Selectman Bickford seconded the motion. All in favor. Motion passed unanimously, 3-0.**

Chair Swenson stated that a draft job description for the Town Treasurer would be finalized and sent to the BOS for approval at the next meeting.

Investment Policy Review

A copy of the policy was distributed and reviewed. Chair Swenson stated that the BOS is responsible for reviewing this policy once a year, and asked for any comments or suggestions. Selectman Jarvis stated that this policy was originally adopted in 2007 and there were no changes until last year, and suggested noting what the edits are going forward. Edits were agreed upon and Chair Swenson suggested it be reviewed and discussed at the next meeting.

School Impact Fees

Selectman Jarvis would like to know for the next meeting, how much money is collected from the school impact fees and is available for expenditures. Selectman Jarvis stated that was done last year at about this time and they were able to take about 50% of what was available and use it to reduced a portion of the school tax rate. She stated that last year it ended up being a reduction of about \$0.05 per \$1,000. TA Bourgeois will get that information, effective April 30, 2014 for the next BOS meeting.

Tax Collector Agreement

Chair Swenson stated that as was disclosed earlier, during the non-public session the BOS talked with the Tax Collector and had an agreement. **Selectman Jarvis made a motion that the BOS approve the ?????? of Agreement and Compensation for Carole Ingham, Town Tax Collector, pursuant to RSA 41:33, as revised on April 21, 2014. Chair Swenson seconded the motion.** Discussion: Selectman Bickford stated that there were a few things that he noticed were not noted including an end date. Chair Swenson agreed that it is a valid point and the date was added. Selectman Bickford also stated that he wants a limit on how many associations are paid for by the Town, perhaps for the next contract. **Selectman Jarvis rescinded her prior motion. Chair Swenson seconded. Selectman Jarvis made a motion that the BOS approve the ?????? of Agreement and Compensation as amended for Carole Ingham, Town Tax Collector and pursuant to RSA 41:33 as revised on April 21, 2014. Chair Swenson seconded the motion. All in favor. Motion passed unanimously, 3-0.**

Application for Raffle Permit

Chair Swenson stated that an Application for Raffle Permit was received from the Cystic Fibrosis Foundation, to be held May 25, 2014 at the New Durham School. **Selectman Bickford made a motion to approve the permit. Selectman Jarvis seconded the motion. All in favor. Motion passed unanimously, 3-0.**

Approval of Minutes

Meeting of April 7, 2014, Public Session: Edits to the draft were made. **Selectman Jarvis made a motion to approve the minutes as amended. Selectman Bickford seconded the motion. All in favor. Motion passed unanimously, 3-0.**

Meeting of April 14, 2014, Public Session: Edits to the draft were made. **Selectman Jarvis made a motion to approve the minutes as amended. Chair Swenson seconded the motion. All in favor. Motion passed unanimously, 3-0.**

Public Input

Kevin Ruel, resident, stated that there was a statement made earlier that the Interim Chief went before the BOS with a list of members that he was going to keep on the Fire Department. Selectman Jarvis clarified that Interim Fire Chief MacCaffrie came before the BOS with his plan for looking at the employees of the Fire Department but there was not a list of names but she needed to go back over her notes to see exactly what was discussed. Chair Swenson stated that he is not aware of a member list being brought forward. Mr. Ruel stated that Mr. Behr came forward today and asked for answers, and got one from Selectman Bickford but did not get anything from Chair Swenson or Selectman Jarvis. Mr. Ruel stated that out of respect, Mr. Behr and his wife, Valerie, deserve a response. Chair Swenson replied that he did give Mr. Behr a “yes” response to his request for a public hearing and stated it would be addressed. Selectman Jarvis stated that her comments relative to having to go back to her notes is relevant to Mr. Behr’s request and her recollect is that the BOS gave the Interim Fire Chief the authority to dismiss people but until she goes back and confirms it in her notes or the official minutes, she cannot say yes or no. Selectman Jarvis stated that it would be entirely different whether they did or did not give the Interim Fire Chief the authority to terminate. Chair Swenson stated that there are a variety of requirements to that process, including the SOGs, the personnel policy, RSA 154, etc. but the point here is to ensure that the BOS is consistent with all of the requirements. Mr. Ruel stated that there is an SOG that goes by removal and it is not just termination that includes addressing failure to attend meetings, etc. Mr. Ruel stated that his thought is that if he were in the position Mr. Behr is in, he would be worried whether or not police will be showing up to his house to collect equipment because he can’t get a straight answer as to his termination. Chair Swenson stated that in that case, it would be the responsibility of the individual to return the necessary equipment. Selectman Jarvis stated that in a case where a department head felt it was necessary to get the police involved in order to return Town assets to the Town, she would expect that at a minimum the Town Administrator and the BOS would be so

notified before any action is taken. Mr. Kroepel stated that this is all contingent on whether he is officially terminated and that was the question that Mr. Behr asked, for which he didn't get an answer. Chair Swenson replied that the Interim Fire Chief has communicated what his decisions have been and the only thing that is not known is the outcome of a public hearing that has been requested.

Bob Kroepel, resident, stated that relative to the legal suit, he sees there as being three options. Mr. Kroepel stated that the first, it could go to court and get into the blame game, which in most cases is not productive. Mr. Kroepel stated that it is his personal philosophy that the best way to handle what is going on now is to say that regardless of what has gone on in the past, let's assess what we are dealing with in terms of the adequacy of the Fire Department, and go forward and avoid the blame game because that is where shout fights begin and the resulting chaos is counterproductive and doesn't help the Town at all. Mr. Kroepel stated that he sees choice number two as being to look into the reappointment of the former Fire Chief and his recommendation is that talks be opened up to find out if Mr. Varney has any conditions that would or wouldn't be acceptable for his return. Mr. Kroepel stated that this could be done without admitting guilt or wrongdoing. Mr. Kroepel stated that he has not spoken directly with Mr. Varney about what he would want but he has heard through hearsay and his requests do not seem to be too unreasonable. Mr. Kroepel said that he would like to encourage the BOS to talk to Mr. Varney. Mr. Kroepel said without permission and specific quotes from Mr. Varney, it seems to him that Mr. Varney is fair-minded and levelheaded about this and asked the BOS to find out what Mr. Varney's conditions are if he were to have the opportunity to return. Mr. Kroepel stated that Mr. Varney has told him that if he were reappointed, he would be fine with his term ending in 2015, he would drop the lawsuit and officially end the confusion. Mr. Kroepel stated that he feels he is functioning as a one-man-oversight committee for the Town of New Durham but he has been talking with a number of people and many people want to see the lawsuit go forward which would require the BOS, under oath, to come forward with what the problems were with the former Fire Chief, and to show just cause for termination. Chair Swenson replied that the 2012 BOS chose to not reappointment, and whatever has happened since then has been consistent with that decision, and it was not a termination. Mr. Kroepel stated that according to RSA 154 a fire chief shall be elected or appointed, one or the other, and there is no third option such as not reappointing. If they are held over it can be expected they will perform the same duties as before and then reciprocally has a right to expect to be reappointed where he is a town official rather than an employee at will. Mr. Kroepel stated that moreover, he read the personnel manual for the Town of New Durham regarding an individual's job performance and so far he does not see where Mr. Varney has done any of the things for which he could be terminated, fired, etc. Chair Swenson replied all of that does not apply. Selectman Bickford stated that what Mr. Kroepel is saying is that there is a contradiction, in that the former Fire Chief was an employee at will and must have been terminated, as opposed to being appointed, which he was not at that time but was formerly appointed. Mr. Kroepel stated that the former Fire Chief was a public official and there is a much larger issue, which is the moral of the Fire Department. Chair Swenson replied that unless he is a part of the department, it might be inappropriate to make such comments. Mr. Kroepel stated that he would be collecting

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the call logs from FireHouse software program, which will not only list calls made from the New Durham Fire Department, it will also list the personnel who were present at the call. He will then check their qualifications to see if, especially for medical calls, they are able to respond to certain medical conditions and wants to ensure that the people showing up are fully qualified. Selectman Jarvis stated that in accordance with State statute, the department does not need to have people trained at the EMT or the paramedic level to be a licensed ambulance service in this state. Selectman Jarvis stated that the Fire Department does have paramedics, EMTs and some EMTIs but the minimum level for transporting and providing care is at least one EMT and an individual trained at a level called First Responder. Mr. Kroepel reiterated his request to the BOS to talk to Mr. Varney to find out what is on his mind and see if there is some way of resolving some of the issues that have come up.

Future Meetings

The next meeting is May 5, 2014 at 7:00 p.m. and will also include a public hearing on the wetland permit issue.

Adjourn

Selectman Jarvis made a motion to adjourn the meeting. Discussion: Selectman Bickford asked for clarification about the next meeting which is to include discussion of the wetland permit issue. **Motion failed for lack of a second.**

Selectman Bickford made a motion to adjourn the meeting. Selectman Jarvis seconded the motion. All in favor. Motion passed unanimously, 3-0. Meeting was adjourned at 5:32 p.m.

Respectfully Submitted,

Jennifer Riel, Minute Taker