

**NEW DURHAM BOARD OF SELECTMEN  
New Durham Fire Department Community Room  
Monday, June 2, 2014, 7:00 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  
Vaughn Morgan, Videographer  
Kellie Chase, Resident  
Mary Foster, Resident  
Lee Newman, Resident  
Daniel Jaye, Resident  
Ann Ruel, Resident  
Kevin Ruel, Resident  
Neysa Brisson, Resident  
Ellen Phillips, Resident  
Alexis West, Resident  
David Gray, Resident  
Elizabeth Cantrall, Resident  
Jacki Snyder, Resident  
Angela Chapman, Resident  
Reginald Meattey, Resident  
Shawn Bernier, Police Chief

Valerie Behr, Resident  
Mark Behr, Resident  
Jeffrey Kratovil, Resident  
Cathy Allyn, Resident  
Elaine Laurie, Resident  
Jon Laurie, Resident  
Janice Anthes, Resident  
Gregory Anthes, Resident  
Matt Libby, Resident  
Bob Kroepel, Resident  
Skip Fadden, Resident  
Dan Boyd, Resident  
Dorothy Viesel, Parks and Recreation  
Commission  
Moira Campbell, Metrocast  
Representative  
Carrie ???????

**Call To Order**

Chair Swenson called the meeting to order at 7:00 pm at the New Durham Town Hall.

**Agenda Review**

Selectman Jarvis stated she would like to add under new business a discussion of the Conservation Commission member resignation. Selectman Jarvis stated that she wanted to be sure that at the conclusion of the Public Hearing, that all previous discussion left open regarding the Metrocast contract be officially closed.

**Public Hearing**

Chair Swenson opened the Public Hearing for the purposes of looking at the cable franchise renewal, pursuant to RSA 53-C: 3-A.

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Chair Swenson stated that for those who are interested, there are copies of the franchise agreement available for review.

Chair Swenson reviewed a few points about the franchise renewal agreement with Metrocast for public information. Chair Swenson stated the agreement has been worked on collaboratively with a variety of towns including New Durham for several months, and a couple towns have already taken action with signing the agreement. Chair Swenson noted that the agreement is for a ten-year period. Chair Swenson stated that an aspect of the agreement specific to New Durham is that there is an institutional network provided which is basically Internet access for town facilities including the elementary school and library. He stated that there are Internet services for those same locations and the agreement calls for the provision for the payment of taxes to be equitably assessed. Chair Swenson stated that there is also a provision where a certain number of subscribers per unit of links and subscribers per mile of fiber who agree to pay for a year's subscription in advance and if Metrocast deems that it is technically feasible, they can get service under that scenario. Chair Swenson stated that there are three local access channels, as well as several other provisions. Not only does the Town get free access to the Internet for its Town offices but there is a provision where the Town gets some revenue from subscribers in the Town. Chair Swenson stated the BOS needs to determine what that percentage will be after some additional public input, and noted that in general terms, this was a brief synopsis of the service contract.

Moir Campbell, Metrocast Representative, stated she wanted to note a couple things. First, the Town does have a franchise fee, which is currently 3%. That is imposed on the video portion of subscribers bill. Ms. Campbell stated that twelve towns are part of the consortium and so far nine towns have signed with three towns remaining to sign the agreement. Ms. Campbell confirmed that complimentary Internet connections are provided to the Town buildings.

Chair Swenson asked when the term for ten years starts. Ms. Campbell replied it will begin January 1 and will be retroactive as well as being non-exclusive. Chair Swenson asked what other towns are remaining to sign. Ms. Campbell replied they are Meredith and Gilmanton.

Selectman Jarvis asked when the first of the towns signed and Ms. Campbell replied it was Gilford in April. Selectman Jarvis asked if any towns signed by January 1 and Ms. Campbell replied no, and it was a matter of all the towns scheduling public meetings. Chair Swenson clarified it was after January 1 that the full consensus of the towns took place and then it was a matter of getting the public meetings scheduled. Selectman Jarvis noted that she didn't see any retroactive date noted in the paper work.

Chair Swenson asked for any public input and comments.

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Elizabeth Cantrall, resident, asked for clarification that the 3% franchise fee goes from the customers of Metrocast, to the Town. Ms. Campbell and Chair Swenson confirmed that is correct.

Selectman Jarvis stated that to her knowledge there is no I-net connections before all the Town buildings including Tash Road and wants to know what the cost would be to connect that. Ms. Campbell asked Selectman Jarvis to send an email about it and it can certainly be looked at. Ms. Campbell noted that a questionnaire for information was gathered and that wouldn't have been on it, otherwise it would have been provided. Ms. Campbell stated that there is a document coming this week that has an updated map (exhibit B). Selectman Jarvis noted there are some minor errors to be corrected.

Chair Swenson stated that there are two things that need to be determined including the 3% and the Town does have the opportunity to increase that up to 5% and asked what the rest of the BOS thinks about that. Chair Swenson stated he is not in favor of increasing it. Ms. Campbell stated there are some towns that choose to not impose the fee. Selectman Jarvis stated that she is not in favor of increasing it, unless Metrocast were absorbing the cost. Selectman Bickford stated that he is not in agreement of raising the fee. It was agreed by consensus that the fee would be left at 3%. Selectman Jarvis stated the money received from Metrocast is frequently used to offset the costs of the Wolfeboro community TV.

Chair Swenson suggested that TA Bourgeois be made the contact point regarding the contract.

Chair Swenson stated that if there is no further public input, the public hearing is now closed, including those held previously and in recess, effective 7:10pm.

**Selectman Jarvis made a motion to approve the Franchise Agreement between the Town of New Durham and Metrocast Cablevision of NH, LLC as amended. Chair Swenson seconded the motion. Motion passed unanimously, 3-0.**

Selectman Bickford asked if there is an increase in usage this time of year. Ms. Campbell replied there is a fluctuation during this time of year and there is definitely some seasonality particularly around Merrymeeting Lake. She stated there are more customers on the high-speed data side.

**Selectman Jarvis made a motion to authorize Chair Swenson to sign the documents on behalf of the Town of New Durham. Selectman Bickford seconded the motion. Chair Swenson abstained. Motion passed unanimously, 2-0.**

**Selectman Jarvis made a motion to enter into non-public session, pursuant to RSA 91-A: 3 II (b) – the hiring of any person as a public employee. Chair Swenson seconded the motion. Roll Call Vote: Chair Swenson-Aye, Selectman Jarvis-Aye, Selectman Bickford-Aye.**

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The Board entered nonpublic session at 7:12 P.M.

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

The Board returned to public session at 7:31 P.M. Chair Swenson stated that while in non-public session, two candidates were interviewed for the Parks and Recreation Department.

**Selectman Jarvis made a motion to hire Alexis West and David Gray as part time employees of the Parks and Recreation Department from the General Fund and to initiate the vetting process with salaries at \$8.00 per hour, and their primary duties being beach attendants. Selectman Bickford seconded the motion.** Chair Swenson clarified that these are positions that the Town has budgeted for the beach activity within the Parks and Recreation Department. **Motion passed unanimously, 3-0.**

**Summer Daycare Program – Lee Newman**

Chair Swenson stated that for public information, the daycare program for the summer including the Creative Kids Club was closed by the Parks and Recreation Commission.

Lee Newman, resident, stated that he, along with other concerned parents were surprised by this and have formed a non-profit entity to request that the program continue. He noted that there are approximately 16 families that need childcare for the summer including part time and full time working parents. Mr. Newman stated that parents were notified the program would not continue a couple of weeks ago and noted school closes in three weeks. Mr. Newman stated parents are in a little bit of a panic mode at this point in finding childcare for the summer recess.

Chair Swenson asked if notification was sent to all of the parents. Mr. Newman replied there was no notification sent and when it was questioned by parents to the Parks and Recreation Commission, the response was that an email was sent out and there had been notice given last September that the program may not be continuing. Mr. Newman stated no one seemed to have received that email. It supposedly informed the parents they had three days from the date of that email to respond. Mr. Newman stated that the email supposedly came from Dot at the Parks and Recreation Commission.

Selectman Jarvis asked if the nonprofit has filed the paper work with the NH Secretary of State. Mr. Newman replied that Chair Swenson has a copy of that documentation. Selectman Jarvis asked if the organization has received their charitable trust number and Mr. Newman replied that he has not been able to go forward with that yet because there is a hitch and that is what needs discussion tonight.

Chair Swenson clarified that Mr. Newman and sixteen other families are committed and indicated they are interested, and asked how that compares to how many families were using the Creative Kids Club last year. Mr. Newman replied it is most of the families

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involved, however a few families have been able to find other care, as there is a chance that they may not be able to do this.

Neysa Brisson stated that the dilemma she has been running into is that most of the daycares in this area are only for children five years old and younger, and most of the children for this program are nine, ten and eleven years old. She noted that last year there were about 12 full time kids in the program.

Going back to answer Selectman Jarvis questions, Mr. Newman stated that the Secretary of State has approved the organization and stated that the AG's office is willing to expedite the process for approval. However, they understand the fact that the program does not have a "home" for the program. Mr. Newman stated that the Creative Kids Club had been assigned space at the school for the summer and the space is rent-free. Mr. Newman stated that when he spoke with the Principal she said she is behind what they are trying to do but she told Mr. Newman he had to speak with the school superintendant. Mr. Newman stated that he has spoken with the school superintendent. He was informed that even though the organization is a non-profit, because they have paid employees and staff, they would not be able to get the space for free and have to pay \$20.00 per hour per classroom which would be a total of \$240.00 per day, and that is just not doable by any means. Mr. Newman stated they cannot have volunteer staff as most of the individuals who previously volunteered to help out with the program are committed to staying, and they are all paraprofessionals and substitute teachers at the school and this is their summer job. Chair Swenson asked how many there are. Mr. Newman stated that he is not really sure as they come and go but Laura McCarthy has agreed to stay on as director to maintain consistency for the kids as well many of the full time and part time staff. Mr. Newman clarified that they are all committed to staying and since they already work at the school, the children are familiar with them.

Selectman Bickford noted that there is empty space available for the program and the Parks and Recreation Department was going to use it for free, so if the BOS says that there is a need for childcare then the school and the organization will take care of everything.

Chair Swenson stated that he challenges the statement that the space is free if the BOS just says it's free. Mr. Newman replied that came from the superintendent's office however, he does not have that in writing. Selectman Jarvis asked if they could get something in writing and Mr. Newman replied that they will not do that as it is part of the school's policy and it is clear in the rental agreement. The superintendant told Mr. Newman that if they get a town or government entity, to acknowledge there is a need in Town for childcare, and the nonprofit is able to provide that care, all that is needed is an acknowledgement on letterhead from the entity to say they are happy to have the nonprofit use the space in the town to meet that need. Mr. Newman summarized that all that is needed from the Town is a letter saying that there is a need and the space can be used. He stated that they are not asking for insurance, staffing and not asking for money or anything else from the Town, just to say they can use the space.

Selectman Jarvis stated that her concern is that she has been hearing since back as far as September, that there is a concern about the possibility of asbestos being disturbed while work is being completed on the school during the summer. Selectman Jarvis stated she would want to make sure that the insurance policy specifically identifies that the Town is being held harmless to any child or staffer, now or in the future of becoming ill or what could have been related to a hazardous material being disturbed. Mr. Newman replied that the Parks and Recreation Department had been assigned the space for the summer and it was not an issue for that. Ms. Brisson noted that the summer school would still be in session. Selectman Jarvis stated that the Town has a liability should it sponsor something. Ms. Brisson stated they are not asking the Town for sponsorship but just to acknowledge and recognize there is a need for the program.

Angela Chapman, resident, stated that she is a parent of one of the children and stated there are several parents present and all they are asking is simply for the BOS to say there is a need. Selectman Jarvis replied that when looking at the paperwork, the organization is classified as Tier 3, a district, town or government sponsored program. Mr. Newman replied that is what the superintendant explained to him and it is a sponsorship by name only, with the government entity saying there is a need and they would like the nonprofit to have the program in the school.

Mr. Newman stated that it is specifically what he was told when he asked what the school needed as far as sponsorship goes because they are not asking for any type of financial sponsorship or anything. The superintendant told Mr. Newman she simply needs something on letterhead acknowledging a need in the town for this care and the school will allow them to use the space.

Chair Swenson stated there a few major concerns to him. He stated that based on his experience as a business consultant, one issue is insurance, and the issue of collections from daycare businesses are always difficult and so there needs to be a solid business plan in place to make sure that there is a plan in place. Chair Swenson stated that he wants to see a solid business plan in place. Mr. Newman stated he doesn't understand what that has to do with anything as they are not asking for any thing other than a letter confirming a need for the program. Chair Swenson stated that he recognizes that that the Creative Kids Club was not receiving any financial substances from the Town but he wants to see a business plan relative to this before he obligates the Town to any liability and to make sure the business plan addresses those issues.

Selectman Bickford stated that all the parents are asking for is the BOS to acknowledge that there is a need for childcare. Mr. Newman stated that the time is ticking for the kids and there are children that have IEPs (individualized education programs) and cannot just be suddenly uprooted from the people they know and depend on. Mr. Newman explained the situation for his own child and stated that this program is where he planned to be for the summer and you cannot just take kids like him out of a setting just because the Parks and Recreation Department decides this isn't worthwhile for some reason, and all of a sudden these kids, including kids with IEPs, have no place to go.

Ms. Chapman asked the BOS to consider writing a letter to the superintendent stating there is a need along with the statement that the Town will not sponsor it until sponsorship needs are clarified but it will allow the program to move forward. She asked that the BOS agree to have a meeting sooner than later so that the letter that will be sufficient for the superintendent can be completed. Ms. Chapman commended the parents that came together to form the nonprofit.

Carrie ????? stated she has twin boys who are 10 years old and it is the stability and security of having a safe environment that they are used to. That lets them be children and it is not for one type of child but for all and all that is being asked is for a little bit of assistance from the BOS.

Dorothy Viesel, replied in regards to Mr. Newman's remark about the haphazard decision about this. Ms. Viesel stated that in no way was this a haphazard decision, and stated that parents were informed last September that there would be hazmat material being removed from the school, possibly, if funding was received at the budget meeting in March. Ms. Viesel stated the Parks and Recreation Commission started making plans at that point but had to wait until the school budget was passed and the funding was available to remove the tiles that are asbestos. She stated that when asbestos is removed, particles fill the air and there is a period of time where air quality has to be monitored, even if the tiles are covered. Ms. Viesel stated that when the Parks and Recreation Commission was notified that the abatement had passed, and a hazmat and flooring contractors were lined up, they started networking within the Town, with the library, Fire Chief and other possible locations were discussed. Ms. Viesel stated she contacted DHHS to use these locations as an alternative site and it was at that point they were informed that they would need to go through the licensing process all over again because it would be a different site. By the time that was completed, she stated the Commission felt that parents needed to be given a heads up. She noted that the school had said nothing about the air quality in the school last summer but stated the Commission has a responsibility to the children and the staff to keep them from the quality of the air. Ms. Viesel stated that at the beginning of May, there was a three-hour work session to try to get alternative contingencies and how much money would be needed. She stated the program usually loses money, and she was the one that sent out the email which asked whether parents would be using the CKC services, full time, part time or occasionally and instructed recipients to please return as it was important information. Ms. Viesel stated she received three responses back, right up to the meeting time of the Commission, and the consensus was that there were two full time and some part time. She stated the program could not be funded on that and the Parks and Recreation Commission could not take the liability of putting the children in a potentially compromised building. Ms. Viesel stated a classroom was offered in the event of inclement weather and stated kids cannot be kept in a classroom all day long. She stated she looked into having walking fieldtrips, visiting Clough Pond and the baseball field. She stated she believes it was the licensing issue that brought everything to a halt. The Commission had to make a decision and give parents enough time to seek alternative care and when she called, there were slots open at Farmington Daycare. Ms. Viesel stated some of the emails were bumped back but she also gave a letter to Laura, the program director, to distribute to children at school.

Skip Fadden, resident, asked Ms. Viesel what makes them think that there is going to be an air quality issue. Ms. Viesel replied that the tiles are asbestos and will affect the air quality. Mr. Fadden stated there will still be summer school and Ms. Viesel acknowledged that there would be classes at the school. Mr. Fadden asked why it is only a problem for this. Ms. Viesel stated the Commission has an obligation to protect the children and when asbestos is pulled up, fibers are released into the air and ventilation system. Mr. Fadden stated that the school must not have an issue with it if they are having classes. Chair Swenson stated that the school is an independent entity from the Town and the school makes their own decisions as to what they do with their programs and vice versa. Chair Swenson stated the Town has no financial contribution to the Creative Kids Club or daycare and he wants to get a legal opinion relative to some of these issues before going forward.

Shawn Bernier, resident, Chief of Police, stated that he has been told that a HAZMAT team is coming in because there is asbestos in the floor and they don't know what the air quality is going to be. Mr. Fadden asked what the situation is with the other students there. Mr. Bernier stated that he does not know but wanted to corroborate with what Ms. Viesel said was true.

Chair Swenson stated that relative to the assumption that if licensing were obtained from the State etc. for a location that is located in the school, and a week later, the school determines that they can no longer accommodate the space, what happens then. Mr. Fadden stated that there is no danger at the school and the school is making accommodations.

Selectman Jarvis stated that Ms. Chapman made a suggestion earlier that certain documents can be gathered that could then be reviewed by the BOS for reassurance. Selectman Jarvis stated suggested the BOS could get a letter signed by the school superintendent stating that all the work being proposed at the school this summer will have no health or safety impact on the children and should issues develop now or in the future, the school will assume all liability, and the school district will hold the Town harmless. If the insurance policy that Mr. Newman is talking about also identifies the Town as being held harmless, then she would be more comfortable. Selectman Jarvis stated that she is very concerned about exposing children and staff to asbestos, it is a major medical issue. She reiterated that if the school will put it in writing and will assume all liability, and the insurance will say the Town is held harmless, then she would look more favorably on saying yes, the Town of New Durham recognizes the need for childcare and the Town can be protected.

Ms. Chapman stated that it sounds like people have done a lot of work already and thinks there should be a work group for providing before and after school care because most towns and schools offer that. She stated that the point here is the children, their care, safety, health concerns and also their development of growing into young adults that are going to one day run this town. Chair Swenson agreed and stated they should sense that as a concern from all on the BOS.



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Selectman Jarvis stated it typically takes three to four months to get a license. Mr. Newman stated that the State realizes that this is a crisis situation and they are willing to expedite the process as the staff and program are remaining the same.

Selectman Jarvis referred to the revolving fund for the period of January 1, 2014 through May 12, and it was running at a deficit already. Mr. Newman stated that there are some things that the BOS does not have to worry about which is the nonprofit's personal finances. He stated that he questions whether some Town officials or volunteers, are assuming that they care more about the children than the parents. Mr. Newman stated that as proactive parents, they know what they do and do not want their children exposed to, and the bottom line is that it is insulting to the parents when the BOS and officials are saying they are watching out for the children.

Selectman Bickford stated the BOS can give them what they want, along with Selectman Jarvis' recommendations, and leave it pending final approval.

Ms. Chapman stated that she wants to make sure that a program is happening in the Town and asked to have a special meeting before the next BOS meeting. Selectman Jarvis replied that it would depend on schedules. Chair Swenson stated that a special meeting could be held if the schedule permits and if there is enough information available to make it substantial. Ms. Chapman stated that it wouldn't be a problem for those who are motivated to get the information.

Mary Foster, resident, stated that she has one point she wants to point out to everyone about a statement that was put out, that families of the Creative Kids Program were sent emails and it was suggested that only three parents responded. Ms. Foster asked if all sixteen people had responded, was the asbestos then OK. Ms. Viesel replied that at that point, they were looking for alternatives and it looked like she going to have a Plan B. Ms. Chapman asked if everyone could work together to come to a solution. Ms. Viesel stated it is the whole licensing process that is now the problem and the decision to shut it down was made by the Commission, who can also change that decision.

Chair Swenson stated that the best solution would be if there could be a consensus between the nonprofit and the Parks and Recreation Commission, who have the responsibility for the Creative Kids Club. He suggested that discussion take place before any BOS meeting occurred and thinks that is an appropriate next step. Chair Swenson stated that he doesn't know what would come out of that meeting or if there is enough information on both sides to come up with a solution but it is a good next step.

Selectman Jarvis stated that while that does sound like a good next step, she doesn't want to see them put all the eggs in one basket and wants to see them pursue getting documentation, that she had indicated would make her feel better.

Ms. Chapman asked for a list from the BOS showing what exactly is needed in order to move forward. She stated she is sure everyone is trying to have the least amount of

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liability possible and do the right thing. Ms. Chapmen went on to explain that the program director, Laura, has given such great care to her child, she would like to see the staff remain the same, at a nice commuting distance and at an appropriate place.

Chair Swenson stated that for clarification what is needed to move forward is a letter from the school superintendant stating that the work being done at the school has no health and safety impact, that the school assumes all liability for any issues therein, the school district holds the Town harmless, the insurance policy will also hold the Town harmless, and he wants to make sure to get the Town Counsel's opinion on what sponsorship implications there may be.

Selectman Jarvis stated she would like to ask the Parks and Recreation Commission, if anyone from the Commission has been able to speak with the superintendant. Ms. Viesel replied that not with the superintendant but they have been able to speak with the assistant administrator and asked direct questions as to whether there is asbestos in the tiles. The answer was yes. Ms. Viesel stated that the Commission asked if the parents had been notified and received no answer to that. The Commission asked if the community had been notified that as of the last day of school, when they start pulling out the asbestos that there was a hazmat condition, and they did not receive an answer to that. As far as legal liability to the Town, Ms. Viesel stated that the Commission needs to make decisions in the best interests of the Town and cannot bring a liability to the Town.

Chair Swenson stated that the other point, in the interests of full disclosure, they want the insurance company to understand that it is something happening at the location.

Selectman Bickford stated that when Parks and Recreation Commission comes back in the fall, they would need to have all the same conditions met. Chair Swenson replied that not if the asbestos is gone. Selectman Bickford stated that as far as we know, the asbestos does not exist. He stated that he has spoken with the school superintendent and was told that there is no asbestos issue and she was going to look into getting space for the program. Selectman Bickford stated that going back to the beginning, there is a need for childcare so let's just agree with that. Ms. Chapman stated that to cut to the chase, the school is not going to be available unless they have heard from the BOS that there is a need.

Jeffrey Kratovil, resident, stated that none of the people present are being paid to do this research and it should be the responsibility of the elected officials and Town Administrator to do this research. Mr. Kratovil asked if when the HAZMAT crew comes in, is there going to be a quarantine in place. He stated that if the asbestos is really that bad, then the area needs to be quarantined and if there is no quarantine in place, his kids will not be going back to the school. Mr. Kratovil stated that if there is no quarantine, no one should be in the building whatsoever, even in September.

Selectman Jarvis stated that no matter what is done, air quality needs to be done several times over the course of time in order to ensure that before school opens in September, that it is a safe environment. Ms. Foster asked how that affects the summer school. Selectman Jarvis stated the Town is not responsible for the summer school.

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Ms. Chapman stated these are all great issues and one of the issues that was brought up and asked, is for the BOS to just get it on paper acknowledging there is a need for childcare so things can move forward. She stated it is not an unreasonable request. Selectman Jarvis stated she doesn't have a problem signing that there is a need for childcare but she is not willing at this point to say that the Town will sponsor the program.

Jon Laurie, resident, stated he is also a business consultant and suggested the BOS write the letter but just put a disclaimer on it.

Chair Swenson replied that there may need to be but he would like a legal opinion as to what the Town is agreeing to and what the legal obligations are for the Town. Ms. Chapman stated that is now a different direction when they are asking them as elected officials to help and now want them to go to a lawyer. Ms. Chapman stated that she just wants the BOS to be clear on what they want and asked if there could be a twenty-four hour turnaround on the legal opinion. Chair Swenson replied that was possible.

Dan Boyd, resident, stated that he notices the BOS' main concern is the liability for the Town and the parents' main concern is just getting a letter stating that the Town needs a daycare. He suggested the BOS just write a letter with a disclaimer stating the Town is in need of a non-specific daycare, and this is in no way an endorsement for any specific daycare. That is all that is wanted.

Valerie Behr, resident, asked who is doing the removal of the asbestos and stated that while she is no professional, she believes that the building will be sectioned off to prevent it from getting into the air. She stated kids are in the school right now and if it is that severe, kids are in there now. Ms. Behr stated that if it is a legitimate company, it would be sectioned off and done the right way.

Mr. Kravotil stated that theoretically, every time the floor is waxed, asbestos is stirred up. He stated he agrees with the criteria regarding asbestos but there is no way it could pass anyways as no superintendant is going to look at a child and hold a town not liable.

Mr. Newman stated that what the BOS is asking is to guarantee the future, but kids are already in there and what happens down the road with what is there now. Mr. Newman stated he is working hard on this but he works full time and doesn't have the time to run around getting all the things that the BOS wants and stated they need to get what they want for information themselves. Mr. Newman stated he has spoken with the superintendent personally twice and was told by her that she hopes the BOS does the right thing and gives a letter saying the space is needed. Mr. Newman stated he asked at that time is there a hazard to the kids because the BOS is trying to lean the hazard on the kids as the reason why it can't be done. Mr. Newman stated that there was already space signed up for the program, it was going to be safe for the kids because it was sectioned off and the superintendent assured Mr. Newman that everything was fine. Mr. Newman stated the superintendent is in favor of this and simply wants a letter saying the Town

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acknowledges there is a need. Mr. Newman stated he has done all the work for this, only asked the other parents to show up for support and is only doing this for his kid and their kids. He stated there is a lot riding on this and if it fails, he doesn't know what he is going to do with his kid this summer and neither do they. Mr. Newman stated he takes his obligation to spearhead this very seriously, and has developed after school programs before. Mr. Newman stated he works with families in crisis and has also done business consulting and told the BOS not to tell him he doesn't know what he is doing, because he does. That is why he promised everyone he would do it. He wants a safe place for his kids and friends for the summer because the rug got pulled out from under them.

Selectman Bickford stated he has known Mr. Newman for a long time, and stated they are in a time sensitive situation and doesn't think any damage can be done in giving them what they ask for. Selectman Bickford stated he was on a number of legislative committees for Affordable Childcare and part of that was identifying community buildings to be used collectively to provide affordable childcare. He stated it is a community thing, not just the school. When it was bought into the school district, the idea was that it would be in a community building that everyone would be able to share and he can't think of a better use than childcare. Selectman Bickford stated all that is needed is to have the BOS acknowledge there is a need. Mr. Newman stated that is correct and as long as the acknowledgment is on letterhead, it is an endorsement that there is a need for the program in the Town. Mr. Newman stated then the superintendent can open up the school for the program.

Selectman Jarvis stated according to Tier 3, town government sponsors the program and stated the superintendent needs to waive the requirements. Mr. Newman replied that all sponsorship means is an acknowledgment there is a need for this in the Town. He stated that he doesn't understand why the BOS or Town Administrator can't contact the superintendent to confirm for themselves. Chair Swenson replied they aren't challenging the conversation, but want to make sure that all Town residents are appropriately representing the issues that were presented. Chair Swenson stated that the BOS may be willing to form a letter that acknowledges there is a need for childcare but he still wants one thing which is to make sure Town Counsel has the opportunity to make clear what the implications are for the Town. He doesn't think that is an unfair request and will do everything they can to expedite that legal review. Chair Swenson stated if that will solve the problem at least in terms of what the next steps need to be, he is willing to move forward on that kind of a situation. Ms. Chapman asked if there was some sort of timeframe on it. Selectman Jarvis replied the BOS cannot say what the Town Counsel will do and need wait for his response.

Selectman Bickford suggested doing the letter that is being asked for, and then if the BOS doesn't like what the Town Counsel says, they can rescind. Chair Swenson replied that once it is written, it is written. He stated the review is such that it should not take an extensive amount of time and stated if the consensus should form into an action, he would do his best to get the response within twenty-four hours but reiterated they are at the mercy of the Town Counsel. Chair Swenson stated it's his experience that he is pretty quick.

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Jacki Snyder, resident, asked the BOS to make a motion to provide the letter, contingent upon review by Town Counsel. Chair Swenson replied that is what would be done. Selectman Bickford stated that he doesn't understand doing that because what if the response isn't favorable, it sounds like there will just be more talking.

Ms. Chapman stated that the BOS is all together right now and feels like there is a lack of commitment from the BOS to say there is a need for childcare.

**Chair Swenson made a motion that the New Durham BOS make a letter on New Durham letterhead that states, "The New Durham Board of Selectmen acknowledges there is a need for childcare" and make that letter subject to Town Counsel review prior to submittal. Selectman Jarvis seconded the motion.**

Chair Swenson asked to whom the letter needs to be addressed. Mr. Newman replied that it needs to be addressed to the School Superintendent as she makes the decision on this. Mr. Newman stated that he would pick up the letter when it is ready.

Bob Kroepel, resident, stated there needs to be wording about what is going to be the result of the Town Counsel's statement, either that the Town won't be liable or will be. Chair Swenson stated he would allow the Town Counsel to address what needs to be done. **Motion passed unanimously, 3-0.**

Chair Swenson stated that the BOS would do their best to get the letter within a twenty-four hour period, subject to review by Town Counsel. Chair Swenson asked TA Bourgeois to contact Town Counsel, prepare the letter and send it first thing in the morning.

**Selectman Jarvis made a motion that should the Town receive a favorable response from Town Counsel, that Chair Swenson be authorized to sign on behalf of the BOS. Selectman Bickford seconded the motion. Motion passed unanimously, 3-0.**

#### **Fire Chief Posting and Officers**

Interim Fire Chief MacCaffrie stated that he passed out a while ago, as part of his goals, a copy of the fire chief job description and a request to fill the fire chief position as he is under a short-term contract. Interim Fire Chief MacCaffrie stated he has posted the positions for the officers, needs a representative from the BOS to do the oral interviews, and needs a motion from the BOS to go forward with the interviews, in accordance with the New Durham Personnel Policy.

Selectman Jarvis noted that there are several nominations and suggested that Chair Swenson sit on the oral boards so he can develop a scoring system for evaluating the candidates for the positions of lieutenant, deputy chief and captain with five people to interview. Selectman Jarvis stated that once the candidates are interviewed, they will then come before the full Board. Chair Swenson explained that Interim Fire Chief MacCaffrie will make the recommendations, interviews are done with a representative from the BOS

and once that is done, the names come before the entire BOS for a final action. It was decided that the entire BOS would sit on the oral boards and a final action can be taken at that time.

Selectman Bickford stated that Chair Swenson had indicated previously he did not want to do any promotions or anything until a permanent fire chief has been appointed. Selectman Bickford asked Chair Swenson if he has changed his mind on that philosophy. Chair Swenson replied that one of the goals that the BOS had for Interim Fire Chief MacCaffrie was to develop an organization and make recommendations as to how that organization should be filled and that is what is being addressed with the promotions. Chair Swenson feels Interim Fire Chief MacCaffrie is obligated to fulfill the goals, of which this would be one of them. Selectman Bickford replied that is not what he is talking about but he is referred to Chair Swenson and Selectman Jarvis having had the philosophy of not wanting to promote anyone until there is a new chief in place and to wait and let him have the decision as to what the promotions should be. Selectman Jarvis stated that any of the officers do serve at the will of the fire chief. Ms. Behr stated that when Chief Varney sent over three applications on multiple occasions, they were sent back with no reason, so he re-did them and re-sent them multiple times and was told that none of the BOS would be allowing in-house promotions to lieutenant, captain or deputy chief until there was a permanent fire chief in place because the next chief may want to make changes. Chair Swenson replied that he has never used the word permanent, because it is not a permanent position, and his understanding of the prior recommendations never went through the appropriate process according to the Personnel Policy of the Town. Mrs. Behr replied that Mr. Varney was never given any reason as to why the recommendations were sent back. Selectman Jarvis stated that is not correct because she personally told him on several occasions. Mrs. Behr stated that Chair Swenson said no decisions were going to be made until the next appointed fire chief has been put in there.

Chair Swenson stated that regardless of that, Interim Fire Chief MacCaffrie is obligated to fulfill the goals laid out and wants to move forward on those, and that is certainly more recent than any of the other issues.

Ann Ruel, resident, stated that she agrees with what Ms. Behr said about Selectman Jarvis and Chair Swenson not wanting to make any decisions about promotions, until there is a new fire chief.

Chair Swenson replied he respects her opinion, but the goals that were established for Interim Fire Chief MacCaffrie are more recent and need to be addressed as well.

Selectman Bickford asked of Chair Swenson and Selectman Jarvis still want to continue with changing their philosophy and position. Chair Swenson stated that he would need to see the meeting minutes but he does want to have Interim Fire Chief MacCaffrie fulfill the goals that were established for him.

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Gregory Anthes, resident, stated that he has a question on this and clarified that the Town is waiting on a new fire chief. Chair Swenson replied that they are waiting on the lawsuit to be determined. Mr. Anthes asked if the lawsuit has started. Chair Swenson replied that he didn't file the lawsuit and doesn't know. Mr. Anthes stated that at the last meeting, Chair Swenson was pushing for the lawsuit to happen. Chair Swenson replied that is not what he said but that he thinks there are significant allegations in the lawsuit that may need a court decision. Mr. Anthes stated that Selectman Bickford has worked out an arrangement with Peter Varney so the lawsuit would be dropped, the Town would not have that financial problem. Mr. Anthes stated that while Chair Swenson had said something was in the lawsuit that he was uncomfortable with, Selectman Bickford had this thing wrapped up for the BOS and the person who filed the lawsuit had agreed to drop it. Chair Swenson replied that he is free to drop the lawsuit at any time. Mr. Anthes stated that Chair Swenson is the one that pushed it, and has put the Town in financial jeopardy, the lives of people in jeopardy and the BOS has yet to explain why they fired Peter Varney. Chair Swenson replied that he was not fired or terminated and Mr. Anthes needs to ask the other two selectmen why they did not reappoint Peter Varney in 2012. Chair Swenson stated that what Interim Fire Chief MacCaffrie is trying to do is fulfill his goals.

Selectman Bickford stated that in response to the question asked about why the previous BOS did not reappoint Peter Varney, he replied that at the time he didn't feel a need to reappoint as Peter Varney was doing the job. Selectman Bickford stated that if he was put back it, Peter Varney would drop the lawsuit and we can go back to other things. Selectman Bickford stated the BOS did meet with the Town Attorney for about three hours on Thursday and while he can't talk about it, the BOS did follow through on that.

Chair Swenson suggested that given the situation, it would be wise for the entire BOS participate in the oral interviews. Selectman Jarvis stated her concern would be of trying to get the schedules of ten people to jive. Chair Swenson suggested it does not need to be all at once.

Selectman Bickford stated he has a couple questions for Interim Fire Chief MacCaffrie as to how many people there are for the positions. Interim Fire Chief MacCaffrie replied that there are two lieutenants, two for captain and two for deputy chief. Selectman Jarvis stated that just because someone has been presented, does not mean that both positions will necessarily be filled.

Selectman Jarvis stated that given that all the members of the BOS are sitting on the oral boards, along with Interim Fire Chief MacCaffrie and the Town Administrator, there is no need for an additional meeting to make a decision on the promotions.

Janice Anthes, resident, asked when the applicants are vetted and documentation is received regarding certifications and licensing. Chair Swenson replied that it is during the interview process. Mrs. Anthes stated that she is concerned that there is a State investigation going on regarding people being used by the Fire Department who are

exceeding their level of training, and wants to be sure that the people being hired and promoted have the certification and training they need to have.

Selectman Jarvis stated that these individuals would not be subject to the background checks, etc as they are already Town employees.

Mrs. Anthes asked what the status is of the two individuals who were placed on Administrative Leave. Chair Swenson replied that he is not sure if the individuals have approached Interim Fire Chief MacCaffrie at any time to inquire about what needs to be done for reinstatement. Mrs. Anthes stated that her understanding from a few meetings ago was that Interim Fire Chief MacCaffrie was going to come back to the BOS with a recommendation about their status. Chair Swenson replied that prior to that, it would be appropriate for there to be a discussion between the individual on administrative leave and the department supervisor to occur before any recommendations occur, and he does not know if the individuals have taken any initiative to communicate with Interim Fire Chief MacCaffrie. Mrs. Anthes asked if there is a timeline as to when the BOS can expect a response from the Fire Chief. Chair Swenson replied that is Interim Fire Chief MacCaffrie's department and he does not know. Mrs. Anthes stated that this whole thing was because he terminated them and did not follow the personnel policy and thought that at the last meeting she was at, Interim Fire Chief MacCaffrie was supposed to come back to the BOS with recommendations. Chair Swenson clarified that the termination wasn't necessarily following the policy. The issue was that there were at least five different policies that indicated where there could be some non-alignment of the policies and his comments were to ere on the sides of the rights to the employee, which is why the termination letters were rescinded. Mrs. Anthes suggested defining a timeframe. Interim Fire Chief MacCaffrie replied that he would do it by the end of this week. Chair Swenson stated there would probably not be another BOS meeting until the end of June. Interim Fire Chief MacCaffrie stated that he would communicate with the individuals by the end of the week and return his recommendations at the next BOS meeting.

Mr. Kroepel, stated that with regards to this process where individuals are brought before the chief and any other individuals including the BOS, as he recalls anytime there are two selectmen in the same building and they are discussing anything that is relevant to town business, that is a de-facto BOS meeting. Chair Swenson replied that is correct. Mr. Kroepel stated that relative to the fire chief, and new positions, shouldn't that be in non-public session. Chair Swenson replied that was already stated and Selectman Jarvis stated that it would be a posted, non-public meeting.

Mr. Anthes stated that two meetings ago, there was the same discussion about the two individuals and Interim Fire Chief had fired those two people. He stated there was discussion that Interim Fire Chief MacCaffrie would come back at the next BOS meeting with his final decisions. Chair Swenson replied that no discussions have happened and therefore he was not able to come back to the BOS.

Mr. Anthes stated that in his experience, every time he hired a manager or person in this position, he would have them take time with the employees to determine who would get



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increases and promotions. The permanent person would make the decision. Mr. Anthes stated the BOS is not qualified for making decision related to fire department personnel. Chair Swenson asked him if he knew that for a fact. Mr. Anthes replied no. Chair Swenson stated that he has not worked in a fire department however, as part of his career he was a charter member and cofounder of a hazardous materials commission with a fire department in Woburn, Ma. He developed and co-chaired the commission and while he hasn't served on a fire department he has had significant experience dealing with fire departments. Chair Swenson stated that a large part of his career, in excess of twenty years, has dealt in management of companies who have dealt with difficult and unusual hazardous materials ever seen and developed procedures, chaired a safety group, etc. Mr. Anthes stated that at the last meeting there was petition of names asking for him to come back as well as letters from Fire Chiefs in surrounding communities expressing their support. Mr. Anthes stated that it was Chair Swenson and Selectman Jarvis that are standing in the way of bringing back Peter Varney. Mr. Anthes stated the Town had an efficient Fire Department, they met calls, both from the Fire Department and EMS so the position of Fire Chief should come first before any other promotions within the department.

Selectman Bickford asked Interim Fire Chief MacCaffrie, if the names were adopted into the positions they applied for, if a new chief could ask to change them. Interim Fire Chief MacCaffrie stated that they would have to go through the same process again. Chair Swenson stated the existing person in a position would have to be terminated in some fashion. Interim Fire Chief MacCaffrie stated as long as a position is filled, unless the person is not adequate or fit for a job, they would not be demoted. Interim Fire Chief MacCaffrie stated the individuals asked to fill these positions.

Mrs. Behr stated that the same people did the same thing under Chief Varney and the same people got turned down every single time because the BOS wanted to wait until there was an appointed Fire Chief. Selectman Bickford stated that the BOS could either go forward now or go with what they had before. Mrs. Behr stated that the BOS should have to wait until there is an appointed chief.

Chair Swenson stated that Interim Fire Chief MacCaffrie has goals that he expects to be fulfilled, and if that means the organization needs to be set, that should be something a decision is made on. He stated he needs to go back and see what was said in the discussions and what was alleged, regardless, he still thinks that the goals for the Interim Fire Chief still need to be filled.

Mr. Anthes stated the Interim Fire Chief MacCaffrie has forty years experience and asked Interim Fire Chief MacCaffrie, if when he took over as fire chief, wasn't he more comfortable looking at his employees, seeing how they work and promoting the hard working ones that were qualified and so forth, and didn't he want to make the decision rather than have the BOS come up with some sort of goals that really don't meet the needs. Chair Swenson replied that again his facts are not quite accurate and what the Interim Fire Chief's goals were to develop the organization and make those positions within the organization happen. Chair Swenson stated that it is clear that based on how

the Town policies are, the Fire Chief has the responsibility for the department and not the BOS however, the BOS are involved in the hiring and promotion process. Mr. Anthes stated that the BOS is setting goals from their position and asked if the BOS sat down with the Interim Fire Chief MacCaffrie and asked him if they were appropriate. Interim Fire Chief MacCaffrie replied that they worked together. Mr. Anthes asked again if Interim Fire Chief MacCaffrie is more comfortable making his own decisions regarding the department rather than having the BOS come up with guidelines. Chair Swenson stated that is off topic and he has already answered the question. Interim Fire Chief MacCaffrie replied that in the State of Massachusetts it is civil service and he had no choice. In Londonderry, it was by test and only when a position was open.

Ms. Ruel asked for an explanation of the hiring process for the Fire Department and she stated that she wants to know when the last time anyone on the Fire Department was randomly drug tested. Chair Swenson replied that relative to the first topic of the process of promotions, the Interim Fire Chief MacCaffrie has come up with the recommendations, the BOS conduct oral interviews and then final action will be taken in non-public session.

Chair Swenson asked what the BOS wants to do with regards to the oral boards. Selectman Bickford stated that he wants to wait but will work with the rest of the BOS members. Chair Swenson stated that he prefers to move forward.

It was agreed by consensus that all of the BOS members would be present for the oral interviews, and the Interim Fire Chief would work with the Town Administrator to set a date for the interviews.

Interim Fire Chief MacCaffrie asked whether the position for Fire Chief should be posted. Chair Swenson replied that it should not be posted at this time.

Selectman Bickford stated that at the last meeting, there was discussion about how to cover the Interim Fire Chief MacCaffrie's line. Chair Swenson replied that he recalled there was one line item over budget but the rest of it is inline or under budget. Selectman Bickford asked how they are going to continue to pay the chief's salary. Interim Fire Chief MacCaffrie stated that as he understands it, it is a bottom line budget and as long as everything equals out in the end, its ok. Interim Fire Chief MacCaffrie stated he can take a look at the budget and come back to the BOS.

### **Department Reports**

Shawn Bernier, Police Chief, stated he is asking the BOS if he can fill the open officer's position. He stated currently the money is in the budget, and asked the BOS for approval to start the process to fill the open position within the Police Department.

Chair Swenson replied that just because it is in the budget, doesn't mean that it needs to be done and suggested Police Chief Bernier come forward with his recommendations regarding that, along with what his view of the process is as it now stands.

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Police Chief Bernier replied he is looking to start the process. He stated he does have one part timer that is interested in the full time position, it would be posted in-house for five business days and if no applications come in, the posting would be put out to the public.

Selectman Jarvis stated she is favor of moving forward in light of the fact that one of the full time officers is going to be going into military duty soon for several months, and it would be nice if an in-house candidate could fill the position, who has already been vetted, gone through all the requirements, is qualified and who knows the Town.

Selectman Bickford stated that he is not in favor of moving forward as that would make five full time officers, and it has not been proven to be necessary and cost efficient.

Selectman Bickford stated that his other point is he would like to see this sort of thing on the agenda. Chair Swenson replied it is a department report and is on the agenda.

Selectman Bickford stated that when filling an open position, it should be on the agenda.

Chair Swenson stated the position is budgeted, but it may be more cost efficient after the needs of the department are looked at and suggested Police Chief Bernier come back with more information. Chair Swenson stated that while Police Chief Bernier has shown towns with similar populations and similar things, the comparison still needs some work.

Selectman Jarvis stated she finds it attractive that there is a possibility to bypass all of the usual costs associated with advertising, outfitting, field time, with the exception of the full time academy training. Police Chief Bernier stated that the part time officer would need to go to police academy as he is currently only certified as part time.

Ms. Viesel urged the BOS to consider the recent press news and the individual in Town who has a close proximity to the school and who has expressed as desire to use explosive and violent behavior directed to school children. She stated that to see the possibility of not filling the position is a public safety issue and could be irresponsible.

Mr. Kratovil stated that he doesn't know the particulars of the story Ms. Viesel referenced, but recommended caution in remembering that individuals are innocent until proven guilty. Ms. Viesel replied that point is well made.

Mr. Kratovil stated he knows Budget Committee member Anthony Bonanno has been looking at the numbers of the Fire and Police departments and until the BOS and the Police Department have had a chance to finalize that dialogue, he would hesitate about making any more hiring. Mr. Kratovil also recommended that Police Chief Bernier comes before the BOS to show how they would be staffing, and he thinks that staffing on third shift should be extended but he is not convinced that there is a deficiency during the day.

Mr. Kratovil stated there is a belief among people in Town, that the BOS are merely doing what their department heads are telling them what to do, so by the BOS looking at Mr. Bonanno's study and coming to a mutual agreement, it would show that the BOS is capable of independent judgment.

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Chair Swenson replied that it appears there is one individual here that complains when the BOS gets involved with the Fire Department's decisions and now Mr. Kratovil is saying that the BOS shouldn't be responding to department heads.

Police Chief Bernier stated that when Mr. Kratovil was on the BOS, this was gone through and Police Chief Bernier justified his decisions on staffing during the day and at the time, Mr. Kratovil agreed with him on several occasions. Police Chief Bernier stated that as far as Mr. Bonanno's survey, he has met with Mr. Bonanno and stated they have discrepancies of opinion of that study. One of those things being that Mr. Bonanno didn't want Police Chief Bernier to include in his activity log administrative motor vehicle stops, pistol permits, building and business checks. Mr. Bonanno doesn't believe any of those should be in the stats. Chair Swenson stated that is despite any comparisons with other towns would include those so you cannot compare apples to apples.

Selectman Bickford stated that is not where Mr. Bonanno is going and he knows the information comes from professionals that do this kind of work and they look at the calls, comparing similar calls to similar calls to find out when they happen and then plot the calls. Police Chief Bernier asked what professional has looked at the stats. Selectman Bickford replied that he didn't say a professional had looked at it, but that is how Mr. Bonanno is trying to do it. Police Chief Bernier stated that other towns are including that information in their statistics and he has had this conversation when Selectman Jarvis was there, that the police department shouldn't do motor vehicle work because all they do is sit by the side of the road and run radar. But then what does he do with the people that want the police department to be doing that and then they call for service to go out and slow drivers down.

Selectman Jarvis read a statement that was prepared by former Selectman Kratovil during the budget process of 2013, in the fall of 2012, *"Are five officers too much for New Durham? If an error is made, the error must be made in favor of positive public safety, not the convenience of individuals. It's not a matter of New Durham paying \$6.88 while Strafford pays \$2.23 because they are forfeiting \$15.53 for local education while we are just hit with \$10.55. There are also the net valuation differences, executive lines, planning lines and general town operations."* Selectman Jarvis stated to Mr. Kratovil that he has changed drastically, as to why he has gone from totally defending the five officers, to now say no. Mr. Kratovil replied that on his first day as a member of the BOS, he was asked to hire Mr. Boudreaux in a split second decision. He stated that it was not fair on a new selectman and doesn't think that decisions should be made split second. Mr. Kratovil stated he went on what Police Chief Bernier said and believed Police Chief Bernier knew what he was talking about. Mr. Kratovil stated he believed it was the correct thing to do for the Town. On the other hand, he believes it was on the rash side and therefore he doesn't see the rush to be making this decision. Mr. Kratovil stated that while public safety should be favored, there is a problem with the BOS where some people in Town believe that Road Agent Mike Clarke and Police Chief Bernier run the Town. Therefore, the BOS do what they tell them to do rather than objectively making a decision. Mr. Kratovil stated doing the study would be a great thing and if a study says to hire seven people, he would be all for it but the BOS has completely veered away and not even tried

to look at that aspect. Mr. Kratovil suggested that Police Chief Bernier and the BOS determine for example, having the Chief in the office and one or two people on the road but at least there is an attempt to go on. He stated it looks like the BOS does not want to determine appropriate staffing levels.

Mr. Kroepel asked if there is an independent association of police chiefs who can make recommendations for a Town of this size and geography, and how many personnel the Town needs. Police Chief Bernier replied that the Department of Justice puts out a publication that shows population to police officers. Chair Swenson stated that those numbers were part of Police Chief Bernier's presentation at the last meeting with the comparison of various towns and they were described at that point.

**Selectman Jarvis made a motion to authorize the Police Chief Bernier to start with internal postings to fill the empty position and to start advertising for additional part time officers.** Selectman Jarvis stated that they may be down to only one who is going to be rarely available. Selectman Bickford stated that he would not second the motion. Chair Swenson stated that he would not second the motion with the second part of her statement. **Motion failed due to lack of second. Selectman Jarvis withdrew her statement.**

**Selectman Jarvis made a motion to authorize Police Chief Bernier to begin posting for the empty full time position. Chair Swenson seconded the motion with the amendment that Police Chief Bernier come forward to provide justification for filling the position to the BOS.** Selectman Bickford asked why not wait until then. Selectman Jarvis replied the process could be stopped at any point. Mr. Kratovil stated that the group for the Creative Kids Program used that same example and suggested a plan to fall back on but Chair Swenson wanted justification before a final approval. Chair Swenson replied that is not part of a Town authorized situation whereas this is.

Selectman Bickford stated that this type of thing needs to be on the agenda and because it was not, he was not able to come prepared. Selectman Bickford stated that he is not in favor of going forward and by it not being on the agenda, he loses his opportunity to try to debate. Chair Swenson replied that he has ample opportunity to enter the discussion. Selectman Bickford stated that he should have been advised this was going to be discussed tonight. **Selectman Jarvis seconded the amendment. Motion passed, 2-1.**

Selectman Jarvis asked Police Chief Bernier about the certification for Canine Fred. Police Chief Bernier replied that has been completed as of today. Canine Fred passed all of his certification and he has his PD1 title (police dog 1). He has been through all of his training and certification.

#### **Town Administrator Report**

TA Bourgeois stated that there has been a group formed with a couple of other communities and are in the process of receiving pricing for #2 oil. TA Bourgeois will let the BOS know when additional information is received. Selectman Jarvis asked if there was any interest from the group in bulk purchasing for other fuels such as propane,

diesel, etc. TA Bourgeois stated there may be. Chair Swenson stated he is concerned with the prices of crude oil moving up and asked if there are any issues relative to that with pricing. TA Bourgeois replied that the prices received so far are not much more than the initial quote.

Chair Swenson asked what the time frame is looking like for finalizing a formal recommendation. TA Bourgeois stated that he may be able to have a recommendation for the first meeting in July.

### **Old Business**

#### **2015 Revaluation Contract**

Chair Swenson stated there is a signed, final agreement in the packets distributed. He stated there were some interesting renegotiation tries by the vendor but they were successfully not renegotiated and the original agreement that was approved by the BOS was signed. Chair Swenson stated that Vision has forwarded an initial schedule and asked TA Bourgeois to get that finalized to post and distribute as necessary. Selectman Jarvis asked what the target start date was. Chair Swenson replied that it was initially mid June but there needs to be a finalized schedule. TA Bourgeois replied that there is meeting next week and it will likely start towards the end of the month, beginning of July.

#### **TA Evaluation**

Chair Swenson stated that the evaluation was completed according to the MRI agreement by the specified time of May 31 and the remaining item, which was not part of the agreement, is the formal sit-down with the Town Administrator to go over the evaluation. Chair Swenson stated it is going to be scheduled within the next couple weeks. Selectman Bickford asked if the date could be set now. Chair Swenson replied that he has not heard back from MRI as to their available dates so cannot schedule the meeting yet.

#### **Timber Sale Income**

Selectman Jarvis stated that to date, the final net income received for the timber sale is \$18, 275.80 with possibly an additional \$1,485.56, which will go into the appropriate capital reserve fund in accordance with the terms of the Shirley Will. Selectman Jarvis stated that when this process was started, there was a discussion with a forester that there should be thoughts about replanting. Selectman Jarvis stated that she would like to start getting estimates now about what those costs will be because if these funds are to be used, it will have to go before Town Meeting for approval in accordance with the Shirley Will. Chair Swenson suggested looking at that late summer or early fall. Selectman Bickford asked for clarification on the fund where the monies would be going. Selectman Jarvis replied that the John Shirley Will specifies that it go into an established fund, which was established sometime in the late 50s or 60s. Selectman Bickford asked where the 10% timber tax paid to the Town goes. TA Bourgeois stated he assumes it goes into the general fund. Chair Swenson stated that as was discussed, any income from the sale would be subject to the Town's timber tax and that would go wherever that tax goes and the remaining portion goes to the Shirley Will fund.

### **Solid Waste Facility Closure Plan**

Changes that were discussed at the last meeting were reviewed and additional edits were discussed.

Additional Edits:

Page 1: Change average quantity of waste to be received at facility to 30 tons, as that is what the design allows for.

Page 1: Change maximum quantity of waste to be stored at facility to 30 tons, after verification.

Page 4: Item 5 “*Incoming waste may be inspected...*”

Page 4: Item 5 (b) Change to “*Waste subject to inspection in this manner...*”

Page 9: Add Town Administrator (*when staffed*)

Page 12: Item 1 (c) spell out Department of Environmental Services.

TA Bourgeois will verify whether the State Fire Marshal must be notified in the event of someone suffering a slip and fall at the facility.

Chair Swenson stated there would be a final approval at the next meeting, after these edits have been made.

### **Transient Sales Person Ordinance Edits**

Changes to the ordinance were reviewed and edits were made.

**Selectman Jarvis made a motion to approve the Transient Sales Persons TO.03.010 ordinance, as amended. Selectman Bickford seconded the motion. Motion passed unanimously, 3-0.**

### **Treasurer Job Description**

Selectman Jarvis stated she has a few changes on page 2 that she would like to discuss. Selectman Bickford stated this is a statutory position, and stated that unless there is something in the statute that allows the BOS to adjust the job description, then they can't. Selectman Bickford stated that the RSA clearly defines the duties of the treasurer and doesn't feel they need to do a job description. He stated that if the BOS are presumed to be a supervisor, then that is a conflict of interest. Selectman Bickford stated while he is prepared to go forward with the position, he is not prepared to go forward with the job description because it comes under the statute. Selectman Bickford shared a copy of the statute and stated he wants further information about where the BOS should go with the job description. Chair Swenson stated that he doesn't have a problem with that even though he is in favor of having the job description but agrees that it should be consistent with the RSA. Selectman Jarvis suggested that TA Bourgeois check with LGC on whether the BOS can do a job description. Selectman Bickford suggested getting another opinion as well and Selectman Jarvis suggested starting with NHMA. It will be discussed further at the next meeting.

## **New Business**

### **Conservation Commission Resignation**

Chair Swenson stated an email was received from one of the Conservation Commission members to resign, effective immediately. Selectman Jarvis stated there is a possibility there are already open positions and asked TA Bourgeois to check with Amy Smith to ensure that the Commission has the appropriate number of people to have a quorum for Conservation Commission meetings. Selectman Jarvis stated that over the winter, Ms. Smith discovered that the Commission at that point in time, did not have the specified number of people they were supposed to have, and when they were calling it a quorum, it was not really a quorum. Selectman Jarvis stated it needs to be determined as soon as possible as the Commission has a meeting posted for tomorrow evening. It was discussed that the Chair of the Commission resigned and Selectman Jarvis stated again that her concern is there are enough current members between the regulars and the alternates to have a quorum for a meeting. Chair Swenson that it is one of the BOS goals to oversee and hold the committees accountable.

Chair Swenson stated the first question is whether there is a quorum and secondly, what are the plans to fill the opening. He stated the Conservation Commission now needs to respond appropriately. Selectman Jarvis suggested there might be some alternates who are willing to move up to become full members.

Chair Swenson asked TA Bourgeois to confirm that the quorum is available for meeting, to make sure that the appropriate information is out to inform the public that there is an opening, suggested having a discussion with the vice chair, and to see if there are any members willing to fill the position. Selectman Jarvis noted the resignation came just three days after TA Bourgeois had notified Moose Mountain of the unauthorized expenditure.

### **Future Meeting Schedule**

Chair Swenson stated the next meeting would normally be June 16<sup>th</sup> but because of business reasons, he cannot attend. Selectman Jarvis stated when Selectman Bickford joined the BOS, it was discussed to change the meeting day to Wednesday, and asked if the BOS wanted to consider changing the meeting day. Selectman Bickford replied that he would have the same problem come up again with a conflict in the Fall. It was agreed to keep meetings on Mondays. After discussion, the following changes were made to the upcoming meetings:

The June 16 meeting was rescheduled to June 25 at 7:00pm.

The July 21 meeting was rescheduled to July 28 at 1:00pm.

### **Parks and Recreation Commission**

Dorothy Viesel, member of the Parks and Recreation Commission, stated she would like to submit a name in nomination as a full time member of the Commission.



Ms. Viesel stated Doug Perkins, is a long time resident with two children, attends several Commission meetings and was unanimously nominated at the last meeting of the Parks and Recreation Commission. She stated he has always stepped up to coach basketball and baseball, and has recently done some work on the infields with his own equipment. Mr. Perkins along with his wife have been very active and involved parents in the community for many years. Ms. Viesel stated Mr. Perkins is direct, practical, and will add additional support to Kelly with regards to the athletic programs. Mr. Perkins is a supervisor with Severino Construction Company, and has been working with projects for years, which will be good for project and upgrades. Ms. Viesel stated Mr. Perkins is a hands-on person and she has watched him work with kids as a very positive role model. Selectman Bickford suggested that Mr. Perkins submit an application. Chair Swenson stated he is willing to make a motion subject to receiving the application.

**Selectman Jarvis made a motion to nominate Doug Perkins as a candidate for one of the open positions on the New Durham Parks and Recreation Commission, contingent on the vetting process and submittal of the volunteer application.**

**Chair Swenson seconded the motion for purposes of discussion.** Selectman Bickford stated that the application should be distributed to the BOS as soon as it is received. Ms. Viesel stated that she would send it to TA Bourgeois to follow up with the BOS. **Motion passed unanimously, 3-0.**

### **IT Policy**

Chair Swenson suggested moving this to the next meeting in order to cover other items on the agenda. Selectman Jarvis stated she hates to keep postponing it. Selectman Jarvis suggested TA Bourgeois send her Chair Swenson's draft, she will add in her edits, and send it to TA Bourgeois to add Selectman Bickford's suggestions and then distribute to all members of the BOS prior to the next meeting.

### **Welfare Guidelines**

Chair Swenson stated the Guidelines were approved at the last meeting, subject to approval by legal counsel. Chair Swenson stated the response from legal counsel was received as of 12:16pm today. None of the suggestions from legal counsel have been included yet, but Chair Swenson stated he has rarely seen a document of this size, need so little input from legal counsel and complimented all who worked on compiling the document.

Chair Swenson stated there were a few suggestions from legal counsel and those were distributed and reviewed. Selectman Jarvis stated she has a problem with the third suggestion as she believes it conflicts with the decision made by the BOS to allow the acceptance of \$XXX.XX for medical insurance. She stated the BOS discussed that it would automatically be included. After discussion regarding the acceptance of medical insurance costs, it was agreed to have Laura Zuzgo, Welfare Clerk, come to the next meeting for further discussion.

**Approval of Minutes**

Meeting of May 19, 2014, Public: Edits were made to the draft. **Selectman Jarvis made a motion to approve the minutes as amended. Selectman Bickford seconded the motion. Motion passed unanimously, 3-0.**

Chair Swenson stated that before going on to the non-public meeting minutes, he wanted to provide follow-up in response to Ann Ruel from the prior meeting. Chair Swenson stated he did go back to the February 3, 2014 video. Chair Swenson stated he has an extensive listing of comments and a series of responses to her question, and he had promised a follow-up at the next BOS meeting. Chair Swenson stated he never used the word “terminate” although former Selectman Kratovil did twice, and Chair Swenson clarified at that Mr. Varney was in holdover status.

Meeting of May 19, 2014, Non-Public: **Selectman Jarvis made a motion to approve the non-public minutes as presented. Chair Swenson seconded the motion. Selectman Bickford abstained as he left the meeting. Motion passed unanimously, 2-0.**

**Public Input**

Mr. Kratovil, stated he has a question for Chair Swenson regarding dialogue between budget committee member, Tony Bonanno and Selectman Jarvis along with Chair Swenson. Mr. Kratovil asked if the Town is moving in a good direction and if they have taken any of Mr. Bonanno’s suggestions regarding the Highway Department.

Selectman Jarvis replied she has been listening to all that Mr. Bonanno has had to say and is drawing her own conclusions.

Mr. Kratovil stated that in regards to the Highway Department, are they starting to see the fiscal benefits of at least just contracting out one plow driver and one truck. Selectman Jarvis replied that there is potential for that but wants to see what the figures look like.

Mr. Kratovil asked if Selectman Jarvis anticipates further conversation with Mr. Bonanno. Selectman Jarvis replied it would be with Mr. Clarke. Chair Swenson stated that information provided by Mr. Bonanno as well as Road Agent Clarke, will do nothing but help the Town in terms of coming a conclusion that makes some sense. Chair Swenson stated that he himself has not had enough information from either individual to say it swings one way or the other but the information being gathered is of positive usefulness to the Town. Mr. Kratovil stated that right now, no decision has been made and asked if the BOS will feel confident by budget season. Chair Swenson replied he is convinced it will be a topic of conversation. Selectman Jarvis agreed. Selectman Bickford stated that he has talked to Mr. Bonanno today, and was asked if there is anything on the agenda regarding the Highway Department. Selectman Bickford stated that he checked and told Mr. Bonanno no, but he would have liked to have been here tonight if he had known it was a topic of conversation.

*New Durham Board of Selectmen*

*June 2, 2014*

*DRAFT*

Mr. Kratovil clarified his question, whether it looks like the BOS is being swayed toward the logic and reasoning of Mr. Bonanno. Chair Swenson stated he is not being swayed either way, as there has not been sufficient information from either Mr. Bonanno or Road Agent Clarke. He stated that one of the key pieces of this was that Road Agent Clarke and Mr. Bonanno were to sit down and work through the comparative information they have so far but he does not know if that has happened yet.

Mr. Kratovil stated one of the facts he found very compelling, was from 2003 to 2012, the increase spent on vehicles per year was an average of around 24% per year. The other was that New Durham was spending \$16,500 per road mile, the way the system is currently operating. Mr. Kratovil stated that between Strafford and Gilmanton, per road mile, they are spending about \$7,000. Chair Swenson stated that this is part of the comparative information that the Road Agent was asked to take care of as part of his goals, and that is part of the reason why he doesn't see how any body can come to a conclusion yet without having all of the information.

Mr. Kratovil informed the BOS that he filled out an application for nomination to the budget committee.

Mr. Kratovil stated he has a question regarding procedure. He stated he is not seeing eye-to-eye with a neighbor relative to property lines, and asked what the right thing to do if his neighbor is of a different opinion of where the boundary line is. Chair Swenson suggested speaking with the land use clerk first. It may need to be looked at by the Planning Board and Zoning Board as well. Selectman Jarvis suggested having Amy Smith pull the files for each property to see if there are any other surveys that can be looked at, and stated it may end up in court as a civil matter. Mr. Kroepel suggested getting another survey done and let the two surveyors work it out.

**Adjourn**

**Selectman Jarvis made a motion to adjourn the meeting. Chair Swenson seconded the motion. Motion passed unanimously, 3-0.**

The meeting was adjourned at 11:29 p.m.

Respectfully Submitted,

Jennifer Riel, Minute Taker