

NEW DURHAM BOARD OF SELECTMEN
New Durham Town Hall
March 23, 2015, 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:

Chair David Swenson
Selectman David Bickford
Selectman Gregory Anthes

Also Present:

Jeremy Bourgeois, Town Administrator
Corky Mork, Videographer
Mike Clarke, Road Agent
Shawn Bernier, Police Chief
Michael Courtney, Esq., Upton & Hatfield
Dorothy Viesel, Ethics Committee Member
Jennifer Nyman, Parks and Recreation Commissioner
Jennifer Nadeau, Solid Waste Office Manager
Joe Bloskey, Solid Waste Facility Foreman
Rudy Rosiello, Resident
Marc Behr, Resident
Bob Kroepel, Resident
Stephanie Mackenzie, Resident
Iain Mackenzie, Resident
Valerie Behr, Resident
Skip Fadden, Resident
Kevin Ruel, Resident
Ann Ruel, Resident
Jeffrey Kratovil, Resident
Jim Shepard, New Durham Fire Department
Stephen McMullen, New Durham Fire Department
Josh Olszewski, New Durham Fire Department

Call to Order

Chair Swenson called the meeting to order at 7:01p.m.

Chair Swenson introduced Town Counsel, Attorney Michael Courtney of Upton and Hatfield.

Appointment/Announcements

Chair Swenson's Statement

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Chair Swenson thanked all voters who participated in the March 10, 2015 election and stated he was pleased all the articles passed. Chair Swenson stated it was gratifying to see the work by the Board of Selectmen, the Budget Committee and Planning Board be approved by the voters of New Durham.

Chair Swenson read a statement he prepared as an introduction to the meeting entitled *Expectations 2015 – New Durham* (see attached). Chair Swenson thanked Theresa Jarvis for her past years of service on the Board of Selectmen and welcomed Gregory Anthes to the Board.

Board of Selectmen Chair/Vice Chair Positions

Chair Swenson stated that with the new composition of the Board, there needs to be decisions made on who will hold position of chair.

Selectman Anthes nominated Selectman Bickford for the position of chairman. Selectman Bickford accepted the nomination. Selectman Bickford seconded the nomination. Motion passed, 3-0.

The Board of Selectmen discussed whether there should be a position of vice-chair. Selectman Swenson stated he doesn't see a need for it.

Chair Bickford nominated Selectman Swenson for the position of vice-chairman. Selectman Anthes seconded the motion. Motion passed, 2-0. Selectman Swenson recused.

Planning Board, Budget Committee, CIP Representatives

Selectman Swenson suggested someone else be the Board of Selectmen representative to the Planning Board this year.

After discussion, **Selectman Swenson nominated Selectman Anthes as the Board of Selectmen representative to the Planning Board. Chair Bickford seconded the nomination. Motion passed, 3-0.**

Chair Bickford nominated Selectman Swenson as the Board of Selectmen representative to the Budget Committee. Selectman Anthes seconded the nomination. Motion passed, 2-0. Selectman Swenson recused.

Selectman Swenson nominated Chair Bickford for the Board of Selectmen representative to the CIP. Selectman Anthes seconded the nomination. Motion passed, 3-0.

Public Input

None.

Agenda Review

Selectman Swenson added under New Business: Audit letters.

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Department Reports/Issues

Mike Clarke, Road Agent, stated that due to social media there was quite a bit of information going around about the grader being broken by a tree falling on it. He explained that it is not true. There was a branch they had to cut off a tree that was in the way and they stood on the top of the grader to do so. Road Agent Clarke stated there is nothing wrong with the grader and the roof of the grader was not crushed.

Road Agent Clarke stated he was in a vehicle accident on Route 11 last week. There were no injuries and minimal damage to the vehicle.

Road Agent Clarke asked the Board of Selectmen for permission to price out a replacement for the F550 that was previously discussed. Chair Bickford stated he doesn't really need permission. Road Agent Clarke stated he was instructed by the Town Administrator to do so because it was not on the warrant. Selectman Swenson clarified it was not on the warrant because capital funds have already been appropriated for that particular purpose through CIP and other warrant articles. Selectman Swenson agreed Road Agent Clarke is correct in coming before the Board to keep them informed.

Chair Bickford asked if the grader wing is back in service. Road Agent Clarke confirmed it is back in service however the parts to convert it to a cable system will not be installed until this summer. It was explained this is because the grader won't be used again this season.

Road Agent Clarke asked if any decisions have been made relative to employee health insurance. Selectman Swenson stated a decision is not really required until May 15.

Road Agent Clarke asked if the Board of Selectmen have discussed raises yet. Chair Bickford replied no but he expects they will be soon.

Chair Bickford asked how many vehicles still need inspection. Road Agent Clarke Replied all but one has been done.

Police Department

Police Chief Bernier stated they have recovered the stolen excavator that was reported in November. He stated there would be an indictment next month, however not for the theft of the excavator but for the sale of it.

Police Chief Bernier presented a purchase order for signatures for the new cruiser. He stated the specifications for the vehicle are indicated on the order. It is a 2015 Ford Explorer, Interceptor package. He stated the cruisers average 20,000 miles per year and are currently on an eight-year rotation. The new cruiser replaces the one involved in an accident involving Officer Joy. Police Chief Bernier stated typically there is a cruiser replaced every two years but he approached the Board of Selectmen to replace the damaged cruiser this year which pushed all of his CIP off resulting in the next cruiser replacement to come in 2017.

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The purchase order was reviewed and signed by the Board of Selectmen. It was clarified the 2008 Crown Victoria was the one wrecked. Police Chief Bernier stated once they receive the vehicle, new lights, radios, computers, etc. will need to be installed.

Selectman Swenson made a motion to approve Purchase Order #0358 to Irwin Automotive Group for one 2015 Ford Explorer Interceptor for \$26,062. Selectman Anthes seconded the motion for discussion. Discussion: Selectman Anthes stated he has not seen the list of vehicles in the department. Selectman Anthes asked Police Chief Bernier if the Crown Victoria was intended to stay in service longer and whether it was Police Chief Bernier's vehicle that was coming up for replacement next year. Police Chief Bernier confirmed that is correct. Selectman Anthes asked how many vehicles there are currently in the department. Police Chief Bernier replied there are currently four vehicles for five full time officers and three part time officers. Selectman Anthes asked if officers take vehicles home with them. Police Chief Bernier replied if they need to, they do. Selectman Anthes confirmed Police Chief Bernier thinks it is necessary to have a vehicle for each officer. Police Chief Bernier confirmed he does. Selectman Anthes asked if it would be too hard to have just four vehicles for the department and have officers coming in their own vehicles to get cruisers. Police Chief Bernier replied it would, along with officers being in training, court and on the road. Police Chief Bernier stated he made the decision to put off replacement of his vehicle in order to get another vehicle in the patrol. **Motion passed, 2-1. Chair Bickford opposed.**

Police Chief Bernier asked for the status of the Administrative Assistant position. Selectman Swenson stated there have been three applications. Chair Bickford stated he isn't ready to move forward on this as he doesn't know how much they really need someone. Selectman Swenson stated it has gone through the Budget Committee and was justified with the number of hours. It was approved by both the Board of Selectmen and the Town vote in the budget. Chair Bickford stated he sees it as an opportunity to review the position again. Selectman Swenson suggested having it specifically looked at in the wage study.

Selectman Anthes confirmed Katie Woods will be staying with the department until the end of the year but she wants to cut back from four days to two days per week. Police Chief Bernier stated she would like to do this by June 1. He noted they figure there will be at least eight weeks of training for the new person.

Chair Bickford suggested Police Chief Bernier do the extra work. Selectman Swenson stated he thinks the Police Chief has more appropriate tasks for his position and it would be a poor use of taxpayer funds.

Selectman Swenson stated that given the amount of pre-employment checks, it takes three to four weeks to complete the hiring process. To meet the deadline a decision should be made tonight. Selectman Anthes stated he doesn't want to rush into anything particularly after looking at the two applicants so far.

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Old Business

Wage Study Agreement/Survey Comparison Communities

Chair Bickford stated Thornton and Associates composed a list and this was reviewed. Town Administrator Bourgeois stated this list has potential communities to compare to New Durham. He stated the towns he chose to compare include Tamworth, Tuftonboro, Rollinsford, Milton and Lee. Chair Bickford suggested adding Strafford. Selectman Swenson noted that previously they had suggested Strafford, Alton, Farmington, Barnstead, Middleton and Milton when the RFP was drafted.

Road Agent Clarke stated Rollinsford has 16 miles of road and two employees; Strafford doesn't have a highway department and he doesn't see how they can compare these towns to New Durham. He stated there are other towns that are closer population wise that should be thrown in the mix. Chair Bickford stated they aren't just looking at the highway department. Road Agent Clarke suggested they should look at other towns that have about the same amount of town employees too. Selectman Swenson stated the information gathered from an entity may have other information that could be used for other departments even though there isn't an exact departmental comparison. He stated the vendor they have an agreement with has experience in this area and understands the differences in the analyses.

Chair Bickford stated he would like to drop the whole thing and do it themselves. Selectman Anthes stated that the \$4,800 spent on this analysis could have been given to the employees. He stated it troubles him that the employees that work hard for the Town, have no idea whether they will get an increase next year.

Selectman Anthes stated there are two lines of thought including across the board raises or merit raises. He stated that if they care about their employees they need to let them know if there are going to be raises down the road for them. Selectman Anthes suggested Town Administrator Bourgeois conduct a compensation study. Selectman Swenson stated that is not part of his responsibilities. Selectman Anthes stated the department heads can check out other town departments for themselves and report back to the Board of Selectmen. He stated the Board of Selectmen can also do their own research and he thinks it is a waste of money to pay an outside firm to do something they can do themselves. Selectman Swenson asked how it takes away from raises for employees and stated raises are already budgeted for. He asked if they should cancel the agreement they already made with Thornton and Associates and how Selectman Anthes proposes distributing the raises to employees. Selectman Anthes stated it would just go into the fund for raises and they would set up a process for merit raises. Selectman Swenson stated there is already a process – if employees have a satisfactory evaluation and the raises are budgeted for, they will likely get it. It was confirmed there is no policy and it is up to the Board of Selectmen. Selectman Anthes stated they need to put more responsibility on the Town Administrator to do the jobs he should be doing. He stated the department heads would be willing to do research too.

Selectman Bickford made a motion to have Town Administrator Bourgeois stop the study. Selectman Anthes seconded the motion for discussion. Discussion: Town

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Administrator Bourgeois stated the first payment has already been made. Chair Bickford asked Town Administrator Bourgeois to see about getting it back. Selectman Anthes stated they need to give hardworking employees some idea that there will be a raise.

Motion passed, 2-1. Selectman Swenson opposed.

Bob Kroepel, resident, asked if there is anyone who would be willing to come in and do these jobs and asked if all the employees can be replaced for less money. It is fundamental to capitalism. He stated they are wasting time doing all the comparisons if they aren't going to follow that fundamental element.

Selectman Swenson stated the idea is to understand the competitive position of New Durham relative to equivalent positions and to develop a compensation philosophy. The market study provides a neutral perspective of where they are.

Tax-Deeded Properties

It was clarified two properties have been sold.

Selectman Anthes stated that regarding the tax-deeded properties, he needs time to go out and look at each property, meet with the committees and get their perspectives so he can make an appropriate decision on them. **Selectman Anthes made a motion that all previous decisions be reversed and delay any future decisions about the sale of the tax-deeded properties. Motion died for lack of second.**

Stephanie Mackenzie, resident, of Birch Hill Road, stated she and her husband, Iain Mackenzie received a letter and a copy was distributed to the Board of Selectmen and Town Counsel. She also provided a copy of her response along with that of Town Administrator Bourgeois.

Ms. Mackenzie stated a piece of land abuts their property as well as Melanie Maxim's on the other side. She stated the letter offers the property for sale to them for back taxes and interest. Ms. Mackenzie stated they responded that they were interested in purchasing the land and went through the long and expensive process of refinancing so they could buy the land. She presented a check made out to the Town of New Durham in the amount of \$26,704.01 which was the amount that was specified for taxes, interest and other costs.

Selectman Swenson stated that for Town Counsel's information, this property was handled the same way as all other properties that has been dealt with relative to this subject. He stated part of the conditions were that this property be merged with her current property. Chair Bickford stated it was silly to send something like that out as a condition of the sale because they can come back the next day and change it with the Planning Board.

Town Counsel, Attorney Michael Courtney, of Upton & Hatfield, replied that Ms. Mackenzie is the Deputy Town Clerk/Tax Collector and he did receive the question from Town Administrator Bourgeois whether there is an issue with this. Attorney Courtney stated any government employee can receive a tax-deeded property. There is no ethical

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issue there. However the process has to be fair and open to the public. Selectman Swenson clarified it was offered to all abutters. Chair Bickford stated he takes issue with the Town selling property that is worth \$42,400 and treating it differently than the micro lots that are in the Copple Crown area. Those do not fit in the Master Plan and cannot be made into full house lots. Attorney Courtney suggested that if the Board of Selectmen wants to discuss this in private with Town Counsel, they could do so. Selectman Swenson clarified it was offered equally to all abutters with the same conditions which is to merge the lots and at the price of taxes and interest.

Ms. Mackenzie stated when she was notified the amount requested was \$26,704.01, she did some comparisons and outlined what she found.

Selectman Anthes stated Chair Bickford's concern is if it appears a Town employee "gets in under the fence". He suggested posting the property for sale to the public to see if there is other interest. Town Administrator Bourgeois stated when they started this process he checked with the Municipal Association and he was told it is the Town's property to do with as they wish. When he put the question to Attorney Maher he advised Town Administrator Bourgeois there isn't issue with it being a Town employee but there may be question with the process. Chair Bickford stated he has been against the process all along.

Rudy Rosiello, resident, stated he was at all the Board of Selectmen meetings where this issue was discussed. He stated they set up the framework for the process, were clear with providing information all through the process and the agreement was to offer all lots to abutters first. If they weren't interested, then the properties would go to auction. He stated that as far as he is concerned, the process was discussed and the framework was laid out and applied to every piece of property in the discussion.

Chair Bickford stated the input he has had, has been in regards to the Copple Crown properties and he agreed with the special conditions there to sell off properties that were less than house lots. He referred to the Master Plan which outlines protecting and retaining the Town's rural character. Chair Bickford stated it makes more sense to keep the properties they have than to have to go out and buy it later to maintain that goal. Selectman Anthes stated he agrees. He stated if they start selling off the lots in Copple Crown Village District, they will harm the residents and further stated the Conservation Commission advised against selling some of them. Selectman Anthes stated people won't be allowed to build on the lots.

Dorothy Viesel, resident, stated she doesn't believe Town employees should be penalized for being employed by the Town. Ms. Viesel stated Ms. Mackenzie was not acquiring the property because of her position.

Mr. Kroepel stated that if what Mr. Rosiello stated is correct and everything was announced publically, then anyone interested in buying property should have spoken up.

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Selectman Swenson stated this particular property has been owned by the Town for twelve years and if they do not choose to do anything to make the property productive tax-generating, it could cost the taxpayer \$0.05-\$0.07 per thousand. Selectman Anthes disagreed and stated they can't get what they want from auction. Selectman Swenson stated it was disclosed by the auctioneers they could expect 30 to 40% of the assessed price at auction. Selectman Swenson stated he doesn't see why Selectman Anthes wants to delay the process; properties have been on the books for over ten years and it doesn't make sense to him.

Chair Bickford stated the difference is there are lots that are non-conforming, very small and don't meet today's standards. Those can be sold for less than actual value because they don't have a house-lot value.

It was agreed to table this discussion until after consultation with Town Counsel.

Selectman Anthes withdrew his motion.

Building Inspector

Town Administrator Bourgeois stated he has been in communication with the Town of Farmington for interim building inspector services. He stated Dennis Roseberry is the building inspector/code enforcement officer and health officer for Farmington. Town Administrator Bourgeois stated he met with the Farmington Town Administrator and Mr. Roseberry last week and he has already started work for New Durham based on a \$30/per hour rate. He stated the Town handles the paperwork and Mr. Roseberry comes in to do just the inspections. A copy of the agreement was distributed and reviewed. Town Administrator Bourgeois stated he would like to schedule interviews for the employee they plan to hire. Selectman Anthes stated they need to hold off on that and it is a good idea to go with the temporary fill-in. Selectman Swenson stated every hour they delay filling the position, costs the Town more money. Selectman Swenson stated he wants to make sure everyone is aware of the costs when no actions are taken. Selectman Anthes stated he has some people that want to apply for the position. It was clarified the position has been posted for four weeks. Chair Bickford agreed to hold off and let Selectman Anthes figure things out and stated the building inspector isn't that busy right now. Ms. Mackenzie replied there is a backlog of fifty properties.

New Business

Committee Appointments

A list of committee appointments was distributed and reviewed.

Chair Bickford nominated Cecil Williams for the Zoning Board of Adjustment.
Selectman Anthes seconded the motion. Motion passed, 3-0.

Chair Bickford asked Road Agent Clarke if he is still part of the Highway Safety Committee. Road Agent Clarke replied he is. Road Agent Clarke stated he didn't not submit a report to the Annual Town Report and they meet once or twice per year. However, they did not meet at all last year. Road Agent Clarke stated he did sign two

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grants for the Police Department last year. Police Chief Bernier stated if the Fire Department applied for grants, it would fall under this as well.

Chair Bickford made a motion to nominate Mike Clarke to the Highway Safety Committee. Selectman Swenson seconded the motion. Motion passed, 3-0.

Chair Bickford made a motion to nominate Jennifer Nadeau to the Highway Safety Committee. Selectman Swenson seconded the motion. Motion passed, 3-0.

Selectman Swenson made a motion to nominate Dorothy Viesel to the Ethics Committee. Motion died for lack of second. Selectman Swenson asked if there was a reason for no second. Chair Bickford replied he would rather not say. Selectman Anthes gave no response.

Selectman Swenson made a motion to nominate Dorothy Viesel to the Parks and Recreation Commission. Motion died for lack of second. Selectman Swenson stated it is a shame that so much time and effort has been put in for the past several years and is not recognized in a reappointment.

Selectman Swenson made a motion to nominate Jennifer Nyman to the Parks and Recreation Commission. Motion died for lack of second. Selectman Swenson reiterated his comments in regards to failure in recognizing efforts with reappointment. He stated it is a shame that the Town will not have the benefit of these ladies' efforts. Selectman Swenson asked if Chair Bickford or Selectman Anthes had nominations to fill the positions. Both replied no.

Chair Bickford stated he is still smarting from the parents who came in about the childcare program last summer. He stated the Parks and Recreation Commissioner is an arm of the selectman and what happens there is a reflection on the selectmen. Chair Bickford referenced the RSA that states the Board of Selectmen have the authority to determine what the Parks and Recreation Commission does or does not do. Road Agent Clarke stated Ms. Viesel was voted Citizen of the Year one year and asked if she wasn't good enough to go back on the committees. He stated that as a taxpayer, he can't believe this is even happening. Selectman Swenson expressed his appreciation for Ms. Viesel's work and stated he believes the Town will suffer because that activity and energy is what is needed for the Town's residents and kids.

Dorothy Viesel, resident, stated the position doesn't matter because they don't do the work to be appointed but they do it because they believe it is in the best interests of the Town. She stated they would continue to do work for the Town.

Fire Chief Position

Selectman Swenson stated that when he first saw this on the agenda he thought it was either ill-advised or irresponsible for Selectman Anthes' first meeting. He distributed and read his *Request for Recusal* dated March 23, 2015. (See attached) In summary, Selectman Swenson asked that Chair Bickford recuse himself from any Board of

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Selectmen decisions relative to Mr. Varney, including any Town related decisions on Mr. Varney's lawsuit against New Durham and any potential New Durham Board of Selectmen future consideration of Mr. Varney as New Durham Fire Chief.

Chair Bickford replied they need to go to legal counsel. Selectman Anthes stated he doesn't think Chair Bickford is biased or should be recused. Selectman Swenson asked if Selectman Anthes is aware Chair Bickford has Power of Attorney for Mr. Varney and that is a legal conflict of interest. Selectman Anthes replied he doesn't see any bias and it is inappropriate to say about a selectman. Chair Bickford stated he did ask the Board of Selectmen if they would consider bringing Mr. Varney back as Fire Chief and that Mr. Varney would drop the lawsuit if they did so. Selectman Anthes stated he was at that meeting and thought Chair Bickford came to the meeting to try and help the residents of New Durham and work it out. Selectman Anthes stated he thought Chair Bickford was voted down unfairly.

Selectman Anthes read a statement he prepared.

Selectman Anthes made a motion that Peter Varney be brought back as Fire Chief with the condition that the lawsuit between Peter Varney and the Town of New Durham be settled mutually between both parties.

Chair Bickford stated they would have to go into legal counsel. Selectman Swenson stated he has presented a significant conflict of interest and if the motion were accepted and Chair Bickford seconds it, he is denying the rationale for recusal. He stated before any further action is taken on the motion, there needs to be legal counsel. Attorney Courtney stated there are a couple issues going on that can be resolved with legal consultation. He stated there are some legal questions but it is still in the superior court. Selectman Anthes asked if Chair Bickford would give authority for Town Counsel to move ahead and start working on the agreement. Selectman Swenson replied there is no action there. Selectman Anthes stated he is not going to accept the idea that they do nothing. He suggested they go into legal consultation right now.

Chair Bickford stated he already said they would meet later in the week. Town Administrator Bourgeois stated that with no disrespect to Attorney Courtney, he would like to have Attorney Maher present at that time.

Mr. Kroepel stated there are several factors here, one that the interim fire chief that has problems with living so far away and has problems dealing effectively as a fire chief (he clarified he has already discussed this with Interim Fire Chief MacCaffrie) but they need to get the Fire Department back on track where it was in 2013. Mr. Kroepel stated he doesn't want an understaffed or undertrained crew responding. He stated that if Chair Bickford isn't going to recuse himself, Selectman Anthes has already made a motion to move forward and get this thing settled.

Chair Bickford clarified that Selectman Anthes motion was not going to bring Mr. Varney back as Fire Chief tonight but it will be based on the condition that the lawsuit is resolved. Selectman Anthes stated that is not what he intended. He doesn't want any

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restrictions or delays on the motion he made. Chair Bickford explained the process of going into legal consultation.

Skip Fadden, resident, asked why a simple motion can't be made to reappoint Mr. Varney. Then, the lawsuit would be dropped. He stated a majority of the Townspeople want this resolved. Chair Bickford stated they need to go into legal consultation first.

Jeffrey Kratovil, resident, asked if there is an issue on whether Chair Bickford should be recusing himself. Chair Bickford replied yes. Mr. Kratovil stated that for a previous similar issue, according to the lawyer, in order to prevent someone from voting they have to show he is incapable of making an impartial decision and the burden of that proof would be on Selectman Swenson in this case.

It was questioned who asked the attorney to be present at this meeting. Town Administrator Bourgeois replied he can call the attorney any time he deems necessary. Selectman Swenson stated he made the suggestion that it may be helpful to have Town Counsel present for the meeting.

Ms. Nadeau asked if there is an estimate of legal fees already incurred in the litigation process with Mr. Varney. Town Administrator Bourgeois replied it is almost \$10,000. Ms. Nadeau asked what Selectman Anthes' estimated expenses he mentioned in his motion regarding the negotiations to settle the lawsuit. Selectman Anthes replied that has not been negotiated yet. Chair Bickford stated they need to go into legal consultation so Selectman Anthes can be brought into the loop.

Chair Bickford made a motion to recess into legal consultation. Selectman Swenson seconded the motion. Motion passed, 3-0.

Roll Call: - Selectman Swenson- Aye; Selectman Anthes- Aye; Chair Bickford – Aye.

Chair Bickford reconvened the public meeting at 10:36p.m.

Chair Bickford stated that while in legal consultation the Board of Selectmen instructed Town Counsel to look into the sale of property that abuts the Mackenzie's property.

Chair Bickford stated that in regards to the Fire Chief issue, he has decided not to recuse himself.

Selectman Swenson clarified the recusal is still in effect but Chair Bickford was declining the recusal request. Chair Bickford replied yes.

Selectman Anthes made a motion that Peter Varney be brought back as Fire Chief with the condition that the lawsuit between Peter Varney and the Town of New Durham be settled mutually between both parties. Chair Bickford seconded the

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motion for discussion. Selectman Swenson stated he will be opposed to this based on legal counsel and based on a) the Town did not choose to go into the suit to begin with, and b) Peter Varney was not reappointed by the Board of Selectmen before Selectman Swenson's tenure and the Town gains no benefit at this point. It will potentially cost the Town more money and the money has already been paid to litigate. Selectman Swenson stated he believes they should wait for the court to decide on the issue, which should be soon. He stated that if the court is not allowed to make a decision, the Town's insurance may not pick up portions of the expenses as they would otherwise. **Motion passed, 2-1.**

Selectman Anthes clarified with Attorney Courtney that he is clear with their instructions to him.

Access to Town Buildings

Selectman Anthes made a motion that no one except Town employees has access to Town buildings or property by way of key, password, and or access codes without authorization from the Town Administrator or by a majority vote of the Board of Selectmen. If employees are found to have shared without proper authority keys, password and or access codes with non-employees or other Town employees this will result in immediate termination. Chair Bickford stated this type of stuff is usually sent to Town Council for review. **Selectman Anthes withdrew his motion.** Attorney Courtney noted the way this is worded, it applies to more than a personnel policy. It was agreed to have Attorney Courtney take and review the motion and comment on whether it should involve immediate termination or a series of disciplines.

Mr. Kratovil stated he has a question regarding the access memo drafted by Selectman Anthes. He asked if that applies to the Meeting House and it is his understanding there are several buildings where this does not apply. Selectman Anthes replied it would be the Town Hall, Police Department, Fire Department and Highway Department. Selectman Swenson stated it is all Town buildings according to the current wording. Mr. Kratovil stated there are a number of past employees that have keyed access. Selectman Anthes replied Town Administrator Bourgeois is working on a list of all the keys that are out there.

Memorandum of Agreement – Town Clerk

Selectman Swenson confirmed it is basically the same agreement as last year with the exception of the rate increase.

Selectman Anthes made a motion to approve the Memorandum of Agreement & Compensation Carole M. Ingham – Tax Collector. Selectman Swenson seconded the motion. Motion passed, 3-0.

Special Event License Application

Chair Bickford stated the application is from Del Vermette of Farmington to do a black powder shoot and flea market on September 13, 2015 from 11:00a.m. to 6:00p.m., with a rain date of September 20, 2015.

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Selectman Anthes made a motion to approve the Special Event License Application in the Town of New Durham on September 13, 2015 from 11:00a.m. to 6:00p.m. with a rain date of September 20, 2015. Chair Bickford seconded the motion. Motion passed 2-0. Selectman Swenson recused as he is a member of the Farmington Fish and Game Club.

Treasurer Delegation of Authority

Town Administrator Bourgeois stated that by state RSA the treasurer is allowed to delegate certain duties to the Town Clerk or Finance Officer. He stated that traditionally the treasurers for the past few years have completed the Delegation of Deposit/Transfer Authority. He noted some changes have been made because the new treasurer wants to do her own reconciliations.

Selectman Swenson made a motion to approve the Delegation of Deposit/Transfer Authority for Heidi Duford, Town Treasurer. Selectman Anthes seconded the motion. Motion passed, 3-0.

Town Building Improvement Expenses – EFT

Town Administrator Bourgeois presented purchase orders for signature by the Board of Selectmen.

Town Administrator Bourgeois noted they went over budget on the Annual Town Reports by \$655.82 due to additional work needed to convert the files and setup the layout. He stated this year's report is 40 to 50 pages longer than last year.

Marc Behr, resident, noted there are still 400 Annual Town Reports still available. Town Administrator Bourgeois replied they had reduced the amount ordered last year by 50 and he anticipates those to be used.

Selectman Swenson made a motion to approve the additional \$655.82 on Purchase Order #1799 to R.C. Brayshaw for purposes of the 2014 Annual Report printing. Chair Bickford seconded the motion. Motion passed, 3-0.

Town Administrator Bourgeois stated the invoice from Pellowe Construction LLC is for repairs to the entry roof of the fire station. He noted he has requested a detail description of what was done including labor and materials. Chair Bickford asked Town Administrator Bourgeois to ask the contractor what was done to structurally improve the strength of the roof to make sure it doesn't happen again.

Selectman Swenson made a motion to approve invoice number 1303-24 to Pellowe Construction, LLC in the amount of \$823.38 for repair to the entry roof of the Fire Department Community Room, and for that amount to come out of the Expendable Trust Fund. Selectman Anthes seconded the motion. Motion passed, 3-0.

Town Administrator Bourgeois presented an estimate in the amount of \$860.00 from Rines Electric for putting power to the clock tower as part of the automation process.

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Selectman Swenson confirmed that what was approved before was for the conversion of the Town clock from a non-mechanical to more automated form. He stated the amount that is going to be spent is lower than what was approved but it is not clear whether this number was part of what was already approved.

Selectman Swenson made a motion to authorize the Town Administrator to expend up to \$900 for the electrical part of the transition of the clock with the understanding that a majority of that has already been approved in the initial motion to transition the clock to a more automatic mechanism. Those moneys to come from the Expendable Trust Fund. Chair Bickford seconded the motion. Motion passed, 3-0.

Town Administrator Bourgeois presented an invoice from Santoro Heating in the amount of \$516.28 for work done last time there was an issue with the water lines coming to the Town buildings. He stated that after discussing the issue with them last month, Town Administrator Bourgeois decided they would be sitting down to come up with a long-term plan for the water issue. Selectman Anthes asked what the issue is. It was clarified no one really knows at this point. More work will need to be done.

Chair Bickford made a motion to approve invoice 2015-7064 to Santoro Plumbing and Heating Company in the amount of \$516.28. Selectman Anthes seconded the motion. Motion passed, 3-0.

Other

Selectman Swenson stated that for public information the Board of Selectmen has been notified by the NH Retirement System that New Durham is due for an audit. According to the letter there hasn't been an audit since 1997. Selectman Swenson stated there are two audits being done, one by the NH Retirement System and one by GASB.

Selectman Swenson stated there is an annual audit that is usually in mid to late March. He stated they are looking to postpone that and he hopes it will be done before the others.

Chair Bickford questioned whether they should be asking for other bids for auditing. He stated they have been using the same source for a while now. It was agreed to put it out to bid but Town Administrator Bourgeois stated he isn't sure if they will get any.

Selectman Swenson made a motion to authorize Chair Bickford to approve the audit letter. Selectman Anthes seconded the motion. Motion passed, 3-0.

Selectman Swenson asked if there was any response on the RFP for the replacement of the furnace in the Fire Department Community Room. None have been received at this point.

Selectman Swenson stated that effective March 31, 2015 the Emergency Management Director will be resigning. He stated they need to look into how that position will be filled.

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Town Administrator Bourgeois asked if the Board of Selectmen wanted to post the Emergency Management Director position. It was agreed that Town Administrator Bourgeois would meet with the Director who is resigning to see what could be done to cover the position.

Approval of Minutes

It was agreed to postpone review of minutes until the next meeting.

Public Input

Marc Behr, resident, stated it is his understanding that during the March 9, 2015 Board of Selectmen meeting, he was discussed in non-public session and action was taken against him during that session. Mr. Behr stated that when he requested the minutes of what happened in non-public session, he was informed that the minutes were sealed to protect his reputation however when he looked at the public minutes there was no indication of a) who voted to seal the minutes and b) why the minutes were sealed and he stated no one will tell him what was discussed about him or what potential damage to his reputation may be done by the minutes. Mr. Behr asked the Board of Selectmen to review the sealed minutes again to see if they meet the requirements of the RSA for being sealed. Chair Bickford replied it would have to be a decision of the Board of Selectmen to review the minutes in a non-public session. It was agreed to put the review on the agenda for the April 6 meeting.

Mr. Behr stated he has heard that the Town may be providing a gift to the out-going selectman for her many years of service. He asked if it was done by the Town or a private group. Selectman Swenson replied that to his knowledge the Town had no participation and no Town funds were used for the purchase.

Town Administrator Bourgeois stated that in regards to reviewing sealed minutes, there is a proposed state bill that would require it be done in the public portion. However, at this point it can be done either way. Mr. Behr stated that regardless of the issue it should be made clear who votes to seal minutes and under which portion of the RSA.

Selectman Swenson replied that over the last few years, very few of the non-public session minutes have been sealed. He noted that in 2014 the Board of Selectmen reduced the number of non-public sessions by 25%.

Future Meetings

Chair Bickford stated he would like to move away from day meetings. Selectman Anthes agreed and stated they get more people present. Selectman Swenson suggested changing the meetings now.

Monday, April 6, 2015- Board of Selectmen Meeting, 7:00p.m., Town Hall
Monday, April 20, 2015 – Board of Selectmen Meeting, 7:00p.m., Town Hall

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Adjourn

Selectman Swenson made a motion to adjourn. Selectman Anthes seconded the motion. Motion passed, 3-0.

The meeting was adjourned at 11:31p.m.

Respectfully Submitted,

Jennifer Riel, Recording Secretary

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EXPECTATIONS 2015 – New Durham

With the most recent election on March 10, 2015 a change in the Town's governing body has been made and the New Durham Board of Selectmen has changed. As a result of the election we want to thank former Selectman Jarvis for her many years of service to the Town and we welcome Greg Anthes to the New Durham Board of Selectmen.

During 2014 the New Durham Board of Selectmen achieved many significant milestones. These include addressing some long-standing issues which include the issue of tax deeded property being dormant and not contributing to the town tax base thereby creating an unnecessary burden on our taxpayers, establishing a guideline for unassigned fund balance levels assuring sufficient reserves for the Town to address unexpected expenses, successfully and smoothly transitioning to an SB2 Town, and successfully developing the now approved 2015 operating budget. These are only a small selection of significant milestones achieved by the 2014 Board of Selectmen. The 2014 Annual Report on pages 17 to 21 outlines several more of the 2014 Board of Selectmen accomplishments.

Now, in 2015 we have an expectation to look forward to continue the meaningful progress New Durham has made over the past year and not waste our time in revisiting issues that have been successfully addressed resulting in benefit to the majority of Town residents. I think that it is imperative for this Board to generate additional positive accomplishments in 2015 so that we can continue creating an environment in New Durham in which our full time residents, seasonal residents, and visitors recognize New Durham as a stable, positive place to be. As we now move to a new Board of Selectmen composition, we all must carefully examine how we will continue to move New Durham towards that goal.

I believe ethically those elected to office are expected to put aside their personal agendas and make decisions that are beneficial to all of our taxpayers and residents. This is best accomplished by looking at each issue which needs to be addressed, making decisions based on facts and truth, and not using preconceived opinions, reverting to old models, nor making decisions based on personal agendas.

So then, if we expect facts and truth to be our basis on which to address various issues – How is this best achieved? It is amazing how strongly we feel about our viewpoint on such things as politics, health, science, town departmental organization, etc. We all like to feel that our viewpoint is the correct one and in doing so often allow no room for consideration of the other person's opinion. The strong, visceral, cutting responses often expressed by some on issues where opinion difference occur are so divisive rather than being educational, collaborative, or inclusive. It bothers me to see at times how thinly a topic is sliced and then the strong, acidic responses that ensue with these responses based on opinion and personal agendas and not on facts. As the Board of Selectmen address issues in 2015 debate is good, but let us make sure we lay out all the facts during our discussions and not use unsubstantiated opinion or personal agendas as the determining factor for any decision.

So often we carry around with us a bundle of self that we regard as altogether too precious to be given up. The point is not whether all have the same opinion, the point is that honor, integrity, and truth must

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be preserved even at any cost to self or our personal agenda. This is especially important when differences of opinion occur. When you weaken the confidence of a person who is following what they honestly believe is right and / or when you weaken the honest and well-intentioned work of leaders, you weaken all of government to operate effectively, you provide an opportunity for an increase in unproductive Town departmental operations, and you seriously impair future economic development opportunities for the Town.

By following the simple Biblical axiom of treating others the way we would like to be treated, all can express their respective thoughts, make their key points, present the key facts, and be even more persuasive in their arguments than in continuing to approach the issues with personal agendas, unfounded and inflammatory rhetoric, and an overwhelming higher opinion of themselves than others.

I believe that God has not given to any one person all the wisdom. Those who are placed in responsible positions should feel it their duty to recognize their responsibility to treat others with respect and with dignity. True progress for all cannot be made by following selfish plans. Practicing the simple guidelines of respect can transform one's character and concurrently transform New Durham into a town that works towards its Master Plan Vision of:

- being vibrant and welcoming with a caring sense of community;
- maintaining a small town atmosphere, historic, and rural character, with rich natural resources and abundant wildlife, while growing larger and more diverse in population; and
- broadening our tax base with an encouraging environment for business and other economic development initiatives.

Is not this the vision that we all wish to achieve. Working towards this vision must be our expectations for 2015 and beyond.

A handwritten signature in dark ink, appearing to read "Drew", with a long, sweeping horizontal line extending to the right.

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Request for Recusal

The New Durham Ethics Policy states that we expect: a) our public servants and volunteers to act in the best interest of the town, b) public servants to disclose any personal, financial, material or substantial interests in matters affecting the town which come before them for action, c) public servants to be independent, impartial, and responsible to their fellow townspeople in their actions, d) public servant positions in our town not be used for personal gain, and e) most importantly, public servants to remove themselves from decision making if they have a conflict of interest. It is critical that these policy statements be strictly applied so that the public retains confidence in the integrity of its government.

Our Town Ethics Policy further goes on to define a conflict of interest as follows: "A situation, circumstance, or financial interest which has the potential to cause a private or personal interest to interfere with the proper exercise of a public duty, or which has rendered the individual incapable of being impartial..."

Our system requires a recusal in any process when it becomes apparent that a conflict of interest may exist. This is done so that any challenge to the neutrality of a member may be appropriately considered. A requested recusal is not designed to be a personal attack on anyone nor is to imply that the member did anything illegal. When a recusal is requested and accepted it is intended to provide the citizens of New Durham an impartial panel on the issue being considered. As an elected Town official, I feel that I am bound to protect the record, assure the integrity of any decisions that are made on a subject issue are made with as much impartiality as possible, and to serve the interests of all of New Durham.

The Town policy defines recusal as follows: "completely removing or excusing oneself from participation as a public servant in a specific action or discussion due to a conflict of interest." The Town policy further states under Section II.A.(i) "Public servants shall avoid conflicts of interest."

In the issue of consideration by the New Durham Board of Selectmen in the matter of reinstating Peter Varney, re-appointing Peter Varney to New Durham Fire Chief, and / or making any determination of further action in the legal case of Peter Varney currently before the court I am formally requesting Selectmen David Bickford to recuse himself from any decisions made by the Board of Selectmen on these matters.

The basis for this request is as follows:

- 1) Selectmen Bickford has a clear bias towards Mr. Varney as evidenced by Selectmen Bickford being appointed by Mr. Varney with Mr. Varney's Power of Attorney in May 2014 (PoA dated May 18, 2014). This Power of Attorney was specifically appointed to Selectman Bickford by Mr. Varney to negotiate with the New Durham Board of Selectmen on Mr. Varney's behalf.
- 2) The stated Power of Attorney authorized Selectmen Bickford to negotiate on Mr. Varney's behalf in the matter of New Durham Fire Chief appointment.
- 3) The stated Power of Attorney also authorized Selectmen Bickford to negotiate on Mr. Varney's behalf in the matter of settling a threatened lawsuit by Mr. Varney against the town. This is evident by the referenced Power of Attorney document specifically stating that Mr. Varney:
 - a. Would likely "move ahead with legal action", and
 - b. Has "a large monetary investment in legal fees but would be willing set (sic) that aside if selectmen (sic) Bickford could negotiate a reasonable out come (sic)".
- 4) The fact that Selectmen Bickford and Mr. Varney have had a direct legal connection in both the reappointment and subsequent legal actions related to this matter as evidenced by the Power of Attorney document provide clear evidence that a conflict of interest exists by Selectman Bickford in dealing with these related matters.

For the above reasons I am specifically requesting Selectman Bickford to recuse himself from any New Durham Board of Selectmen decisions relative to Mr. Varney including any Town related decisions on Mr. Varney's lawsuit against New Durham and any potential New Durham Board of Selectmen future consideration of Mr. Varney as New Durham Fire Chief.

A handwritten signature in cursive script, appearing to read "Dwen", written in dark ink.