

**BOARD OF SELECTMEN
TOWN OF MADISON
JANUARY 14, 2014
MINUTES**

Selectmen Present: Chairman Michael Brooks, Josh Shackford, and John Arruda.

Others Present: Town Administrator Melissa Arias; Fire Commissioners Alan Gilman & Joyce Elliott; Budget Committee members Hersh Sosnoff, Bill Lord, Cheryl Littlefield, Ron Force, and David Chase; Moderator George Epstein; firefighters David Cribbie, Dave Aibel, Robert Rand, Chris Lyman; Fire Chief Jeffrey Eldridge; residents MaryAnne Sosnoff, Brian Fowler, Franklin Jones, Denita Dudley, Phoebe Rand, Fred Ham, Craig Belcher, Donna Veilleux, C. Paul Littlefield, Michael Veilleux, Chucky Lyman; Trustee of Trust Funds Lynne Gilman; Madison TV Videographer Emilie Riss; and others who opted not to sign in on the Public Hearing Sign In sheet.

Where and When Posted: Town Hall upper & lower bulletin boards and Madison & Silver Lake Post Offices on December 5, 2013.

Meeting Called to Order: By Brooks at 5:30 p.m.

APPROVAL OF MINUTES – Shackford made a **motion** to approve the Selectmen’s Meeting minutes of December 30, 2013 as prepared, seconded by Arruda, and so voted **3-0**.

APPROVAL OF MANIFEST – Shackford made a **motion** to approve the Manifest of January 13-17, 2014 in the amount of \$150,593.50, seconded by Arruda, and so voted **3-0**. The Manifest breakdown is as follows: \$24,678.69 for payroll; \$8,057.50 for payroll liabilities; \$67,857.31 for accounts payable; \$50,000.00 for the Madison School District (release date of 1/16/14).

PUBLIC HEARINGS – The Selectmen scheduled two Public Hearings for this evening. Notice of the hearings was posted on December 23, 2013 on the Town Hall upper and lower level bulletin boards and at the Madison and Silver Lake Post Offices. A public notice was also published in the Conway Daily Sun on January 7th, 11th, and 14th.

MADISON BOULDER FUND TRANSFER PUBLIC HEARING – Brooks announced that he was reversing the order of the Public Hearings as printed on the agenda because he anticipates the Madison Boulder hearing will take much less time. Brooks then opened the public hearing and asked for comments from the Selectmen before opening the floor to public comments. Since the Selectmen had no comments Brooks explained for the benefit of the audience how the Town’s Boulder Loop fund came to be, how the balance is comprised of a single grant awarded to the Town along with a number of smaller private donations. Brooks said this transfer process has been in the works for about two years. When asked, Brooks said the account contains \$6,805. Brooks said the intent is to transfer the funds from the Town account to a newly established fund set up as a non-profit under the Geological Society of NH. The Geological Society of NH has entered into a Property Management Agreement with the NH Department of Resources and Economic Development (DRED) for the upkeep of the Madison Boulder State Park. Brooks said it only makes sense for the Town of Madison to be taken out of this equation because the State will be establishing a “Friends of the Madison Boulder” group/committee who will oversee the upkeep of the park

going forward. As there were no further comments or questions Brooks closed the public comments portion of the hearing. The Selectmen had no further discussion before the following vote was taken.

Motion: Arruda made a **motion** to transfer funds in the amount of \$6,805 from the Town's account to the Geological Society of NH who will work in cooperation with DRED, seconded by Shackford, and so voted **3-0**.

Decision: Arias will provide a copy of the minutes to the Treasurer so she can prepare a check to the Geological Society of NH.

FIRE DEPARTMENT ORGANIZATION PUBLIC HEARING – Brooks opened the Public Hearing for the organization of the Madison Fire Department. Brooks said the Town can find no historical records in Town to prove that the Fire Department organization was established and voted under the law of RSA 154:1. Brooks said the Town has found the point in time when elected Fire Commissioners came to be but their election wasn't consistent during that time and minutes don't indicate why the election of commissioners was inconsistent early on. The Selectmen said the only people that can change the way in which a fire department is governed is by the vote of Town Meeting. Brooks said the By-Laws of the Fire Department that had existed for many years were changed in 2010 internally within the Fire Department without taking the change before Town Meeting. Therefore, Brooks said this change was illegal. Brooks said the purpose of this meeting is to discuss how the Fire Department should be organized going forward. Brooks read aloud the first section of RSA 154:1 which outlines the various forms of Fire Department organization that can be voted by the local legislative body. Arruda said the term "legislative body" as referenced in the State Law means Town Meeting and the term "governing body" means the Board of Selectmen. Brooks opened the public comment portion of the hearing. Commissioner Elliott said the Madison Fire Commissioners were not organized under RSA 52:1,I(a) as referenced in the beginning of RSA 154:1. Elliott said she researched Town Meeting minutes at the Madison Library and cited some of the same research findings the Selectmen already have from the period 1933 – 1939. Phoebe Rand asked which section of the RSA the Selectmen are going to propose. Brooks said the Selectmen are looking to get through the public hearing prior to making their decision on which section of the law to propose in the 2014 warrant article. Phoebe Rand asked that the article be written to keep the Fire Commissioners intact with the Fire Chief appointed by the Fire Commissioners. Denita Dudley asked about the By-Law change in 2010. Brooks said up until 2010 the Fire Chief was elected annually by a vote of the Fire Department membership, as were the members voted onto the department. At some point during 2010 the Fire Chief became appointed by the Fire Commissioners and the Fire Chief began appointing members. The Fire Commissioners have remained elected by the Town all along. Dudley asked why the Town wouldn't just revert back to the way things were done before the illegal change to the By-Laws. Elliott said there was more to the By-Law change than what Brooks' provided. Elliott said the establishment of the Madison Fire/Rescue 501(c)3 non-profit organization was part of the reason for the change. Brooks clarified that the previous account known as the "Firefighter Fund" that had been maintained by the Fire Department and audited annually by the Town's auditing firm was transferred into a stand-alone 501(c)3 non-profit at the auditor's recommendation. Brooks said the Madison Fire/Rescue non-profit organization was established for the purpose of accepting private donations and had nothing to do with the day-to-day operations of the Fire Department, its annual operating budget, or the way in which the Fire Chief was selected. Elliott said the Fire Chief was no longer allowed to be elected by the membership once the non-profit was set up. Hersh Sosnoff said he favors organizing the Fire Department with the Selectmen appointing the Fire Chief and the Fire Chief appointing the members. Sosnoff said the Selectmen are voted into office with the expectation that the decisions they make will be in the best interest of the whole Town. Sosnoff said Fire

Commissioners are appropriate for larger towns or cities that have a number of fire departments [precincts] within them. Sosnoff said Madison, with only one fire department and one Fire Chief shouldn't require Fire Commissioners. Sosnoff said Fire Commissioners in Madison just add a layer of government that's unnecessary. Sosnoff said having the Selectmen appoint the Fire Chief makes sense, as does having the Fire Chief appoint Fire Department members at his discretion with safety and qualifications in mind. David Chase favors the Selectmen appointing the Fire Chief and the Fire Chief appointing the members. Bill Lord agreed with Sosnoff and Chase and pointed out that the Town doesn't have a Police Commission or a Highway Commission so we shouldn't need a Fire Commission. Dudley agreed with Sosnoff, Chase, and Lord. Phoebe Rand said the Selectmen would be overburdened by taking on the additional responsibilities of the Fire Commissioners and doesn't feel the Selectmen should have to hold more monthly meetings than they already do. Phoebe Rand said past Fire Chiefs' have been put in place by the Fire Commissioners after working their way up through the ranks of the Fire Department and earning the trust of the firefighters, which is important for a group that goes into dangerous situations together. Donna Veilleux asked to hear what section of the law the Fire Commissioners recommend for the warrant. Fred Ham said he'd like to see the Fire Chief appointed by the Selectmen because Fire Departments tend to be based upon popularity. Shackford said growing government is not a good idea. Shackford said the ultimate day-to-day operation of the Fire Department should and would continue to be decided upon by the Fire Chief. Shackford said the Selectmen do not tell the Police Chief or Road Agent how to run their departments but the Selectmen do monitor and hold the budgetary purse strings. Shackford likened the current situation to too many Chiefs (three Selectmen and three Fire Commissioners) and only one Indian (the Fire Chief). Paul Littlefield said he supports the Fire Chief being appointed by the Selectmen with the members appointed by the Fire Chief. Littlefield appreciated Shackford's statement that the daily operations of the Fire Department should be done by the Fire Chief anyway. Alan Gilman said the Fire Commissioners scrutinize the Fire Department invoices and make sure they understand what the charges cover before they sign off their payment authorization. Gilman said prior to his election as a Fire Commissioner the spending of the Fire Department was not watched as closely. Gilman said the Fire Commissioners don't cost the Town any money because their elected position is unpaid. Arruda pointed out that the Board of Selectmen was not notified by the Fire Commissioners after the most recent change in Fire Chief occurred in late November. Chucky Lyman said he was a past Fire Commissioner and understands what their role entails. Lyman said he disapproves of the way the Fire Department is being run and feels the current Fire Department and Commissioners have alienated themselves from the rest of the Town. Lyman said there are issues that aren't being explained to the general public properly, like the proposal for purchasing a state-of-the-art fire truck when it might not be something the Town can afford. Dudley said the news of the Board of Selectmen not being notified when the former Fire Chief left and a new Fire Chief was named is of concerning to her. Dudley asked the Selectmen whether eliminating the Fire Commissioners would ensure the Selectmen are better informed on all Fire Department matters. Shackford said the change, once voted, wouldn't take affect for one year. Phoebe Rand asked whether there could be a second warrant article, petitioned or otherwise, that could be put on the warrant to give voters an alternative. Moderator Epstein was consulted and said only one article should be written but that article should be amendable on the floor at Town Meeting. Epstein asked that confirmation of this be obtained in advance from the Department of Revenue Administration. The Selectmen agreed with Epstein's comment about the ability to propose amendments to the original article. Elliott asked what would happen if a firefighter had a grievance that he couldn't take to the Fire Chief and there were no Fire Commissioners. Arruda said the grievance would come into the Board of Selectmen just like any other grievance. Elliott said the firefighters aren't considered employees so she questioned whether the Selectmen could handle a grievance. Brooks stopped the discussion and stated that by all intents and purposes the firefighters are covered under the workers compensation and property-liability policies of the

Town and the Selectmen could most definitely handle any such grievance. Brooks said the group would not be taking up discussion tonight about firefighter status or the IRS appeal because those matters don't affect the organization of the department. Arruda said he doesn't see the additional work being a hindrance to the Board of Selectmen. Arruda said the Selectmen only meet officially with the Police Chief about 4 times per year and could do the same with the Fire Chief during regular Selectmen's Meetings. Donna Veilleux asked whether the Fire Chief could be elected by the voters and Brooks said that is one of the five available options. Donna Veilleux said that would be her preference. Craig Belcher said he was a member of the Fire Department for many, many years and held various Chief Officer positions during his tenure. Belcher said historically there has been tension between the Board of Selectmen and the Fire Commissioners. Belcher asked whether the Fire Commissioners are accountable to the Board of Selectmen or to the voters. Arruda said the Fire Department operating budget and warrant articles will always have to be presented to the Board of Selectmen. Epstein said elected officials are typically responsible to the voters directly and not to another elected body so therefore the Fire Commissioner don't report to the Board of Selectmen and can't be considered subordinate. Epstein said the relationship the Selectmen have with the Road Agent and Police Chief are the same as the relationship the Fire Commissioners have with the Fire Chief. Shackford said he doesn't know of any town where the legislative body elects their Fire Chief and feels that would be a really bad idea because it makes the position one of popularity rather than qualifications based. Brooks also pointed out that electing a Fire Chief would require all candidates to be registered voters in Madison. Robert Rand's biggest concern over electing the Fire Chief is that the individual running for the position might not be a good and qualified leader. Robert Rand said the current board of Fire Commissioners are around the Fire Department building a lot and therefore can see who the members work and communicate well with so are better suited to decide on who the best candidate to lead the organization is. Elliott said the reason Fire Chief's aren't being elected today is because more and more departments are going to a paid-call system at least during the week because the majority of members are unavailable during working hours. Brooks said the goal of the Selectmen is to have a vote documented in Town Meeting minutes to ensure we comply with RSA 154:1 regarding Fire Department organization. Brooks said he has no preference on which subsection is proposed though the warrant article and was hoping to gain insight during this public hearing. Robert Rand suggested the section be proposed based upon the way the department is being run now. Phoebe Rand said most of the firefighters don't get involved in the politics of the Fire Department; they just want to have the equipment and resources available to fight fires when one occurs. Phoebe Rand pointed out that the Selectmen proposed a warrant to do away with the Fire Commissioners last year and the article failed. Phoebe Rand said the Fire Chief appointment should be done at the recommendation of those who work closely with him. Shackford said the warrant article last year was put on by the Selectmen at the last minute without adequate time to explain the pretense behind the article during a public hearing and prior to Town Meeting. Shackford said he'll take the blame for the poorly presented article last year and wanted to clarify that this article is not intended to be a power-grab by the Board of Selectmen. Shackford said the Selectmen are not looking to make this move to oust anyone from their position or appoint a replacement. Phoebe Rand thanked Shackford for clarifying this point. Arruda pointed out that the Board of Selectmen has a lot of collective experience (about 25 years) and Arias has worked for the Town for 19 years. Arruda said he has seen a drastic decline in Fire Department related communication during his tenure. Arruda pointed out that the Selectmen and Town Hall staff are very familiar with the Right-to-Know law (RSA 91-A) which is an integral part of government operations. Arruda said he's asked the Fire Commissioners to hold their monthly meeting in the Town Hall Meeting Room because it's a more comfortable environment that's easier for the public to access and is wired for Madison TV recordings. Arruda said the Selectmen can't make the Commissioners change their meeting location but he can't see why they wouldn't be willing to utilize the Town Hall. Arruda said he's been approached by more than one Madison firefighter and more than one firefighter from

neighboring towns stating there is acrimony amongst the ranks of the Madison Fire Department. Arruda said there is an on-going lawsuit between two parties within the Fire Department which virtually means the Town is suing the Town and the only ones who will win in this case are the lawyers. Arruda stated that if he had been involved in this matter early on without the extra layer of the Fire Commissioners he's almost certain there wouldn't be an ongoing lawsuit. Lynn Gilman asked how the Selectmen will get word out about the 5 options outlined in the law. Arruda said copies of the one-page statute can be available for handout at the Public Budget Hearing and at Town Meeting. Arias said the page could be linked to the Town's website. Brooks suggested Arias reach out the Daily Sun reporter Daymond Steer and ask him for a follow up article to the one he wrote in preparation for this hearing. Brooks commented that the publishing of such an article typically results in the presence of a reporter at the meeting referenced in the article, but apparently not tonight. Chase asked the Selectmen to write the warrant article the way the Board feels is most efficient in the eyes of the Selectmen. Brooks closed the public comment portion of the Public Hearing and asked for the pleasure of the Board. Arruda asked whether another Public Hearing would be scheduled before Town Meeting. Arias said that's up to the Selectmen but the 2014 warrant should be firmed up as soon as possible because the Selectmen and Budget Committee will need to vote their recommendations on the 2014 warrants before the February 4, 2014 Public Budget Hearing. Shackford suggested proposing the Fire Department organizational warrant article as RSA 154:1,I,(a) with the Fire Chief appointed by the Selectmen and the firefighters appointed by the Fire Chief. Brooks said RSA 154:1, II allows the firefighters to recommend the appointment of any firefighter, fire officer, or fire chief to the appointing authority. Brooks suggested adding language to that effect to the proposed article.

Motion: Shackford made a **motion** to propose the article as RSA 154:1,I,(a) which will include the language, "a fire chief appointed by the local governing body, upon recommendation of the firefighters, with firefighters appointed by the fire chief", seconded by Arruda, and so voted **3-0**.

Decision: Sue Stacey will be notified of the Selectmen's decision on which subsection of RSA 154:1 to use in the drafting of the 2014 warrant article.

PUBLIC COMMENTS – Fred Ham brought up an issue with the placement of this year's winter signage on Lead Mine Road to Summer Cottages. Ham presented photographs showing the placement of last year's winter closure sign which was at the intersection with Black Brook Road. Ham said this winter the sign was posted in a very different location and at a point well beyond the intersection with Black Brook Road. Ham said the current placement could cause motorists to be unable to back their vehicle up once they realize what the sign says. Ham also asked the Selectmen to request Scrub Oak Scramblers Snowmobile Club post some of the bright orange warning signs like they did last year. Ham said another type of sign that warns snowmobilers of the potential for oncoming motorized vehicles should also be requested of the SOS Snowmobile Club as soon as possible. **END OF PUBLIC COMMENTS**

FEBRUARY 2014 PLANNING BOARD MEETING – Brooks said the Planning Board is requesting Code Enforcement Officer Bob Babine's attendance at their February 5th meeting for the purpose of discussing accessory dwelling units within the Zoning Ordinance. The Selectmen unanimously decided to authorize Babine to attend the February 5th Planning Board meeting after Babine told the Planning Board Administrative Assistant that he couldn't attend the meeting because he wouldn't get paid.

VETERANS ADVISORY COMMITTEE UPDATE – Brooks said the Veterans Advisory Committee met Monday night and discussed two invoices from Arthur's Memorials which cover the purchase of the second granite stone (\$4,499) and the engraving of the header on the second stone (\$265). Brooks said the

Veterans Advisory Committee is recommending the same header be engraved on both stones. Brooks said he'd attempted to get the balance of the Veterans Monument account today in preparation for this discussion but since he couldn't he was hopeful the recent awarding of a \$2,000 grant from a local foundation and receipt of a private donation of \$500 will allow for the two invoices to be paid in full from the account.

Motion: Brooks made a **motion** to authorize the two payments to Arthur's Memorials if there are sufficient funds in the account, seconded by Arruda, and so voted **3-0**.

Decision: Arias will prepare the necessary paperwork for the Trustees of the Trust Fund to be able to pay Arthur's Memorials.

ADDITIONAL SELECTMEN'S MEETING – The Selectmen discussed whether to schedule an additional Board meeting sometime next week to address any last minute budget concerns, potentially vote whether to recommend or not recommend warrant articles, and discuss other business that hasn't been able to be put on the agenda either 1/14 or 1/28 because of the Advisory Budget Committee's 6 pm arrivals on those nights. The Selectmen decided to meet Wednesday, January 22, 2014 at 5:30 p.m. since everyone will be busy with Elections on Tuesday the 21st.

EAST MADISON ROAD BRIDGE PROJECT – The group decided to discuss this at the January 22nd Selectmen's Meeting. Brooks asked Arias to arrange for the Road Agent to be present and asked David Cribbie, who was sitting in the audience, whether he would be free to attend as a representative of GW Brooks & Sons. Cribbie indicated he would attend.

TRANSFER STATION COVERAGE – Arias explained that due to a schedule vacation and an unexpected illness there will be no coverage at the Transfer Station on Friday, January 17, 2014 unless the Road Agent can spare one of his crew who is certified. Arias said the forecast for Friday is scattered showers which could make it harder for a Highway employee to cover. Arias also noted that a recent and unexpected closure of the Transfer Station due to excessive ice and unsafe conditions for employees and the general public was met with much resistance from inconvenienced residents. Shackford said the public safety trumps personal convenience any day of the week. Arias said she's looking into the cost of cramp-pons for the two Transfer Station attendants to wear when conditions are icy. Brooks asked the Fire Chief whether he could spare a couple pairs from the box of them stored at the Fire Department. After a little resistance from a member of the department Brooks said he'd rather not purchase items that the Town already has a large quantity of and offered to retrieve the two sets from the Transfer Station should they be needed at a fire in the future. The Selectmen would prefer the Transfer Station be open Friday from 7 a.m. to noon as long as the Road Agent can have one of his crew members there.

SIGNATURE ITEMS –

Manifest

Payroll & Accounts Payable Checks

Purchase Requisition #2014-EMER-001 = PowerProducts (\$850) maintenance on 2 generators

#2014-HIGH-001 = Napa Auto (\$1,462) inspection station tools

#2014-LIBR-001 = ByWater Solution (\$1,500) annual support/hosting

Veterans Credit Application – (256-060)

Disabled Tax Deferral Application – (204-044)

Tax Collector's Abatement #2014-001 – (204-044) to accompany Disabled Tax Deferral

Tax Collector's Abatement #2014-002 – (115-040)
Diesel Fuel Exemption Certificate for 2014 – Jesse Lyman Inc.
Gas Exemption Certificate for 2014 – Jesse Lyman Inc.
Current Use Land Use Change Tax Form A-5 – Norja, Inc (112-010) access roads phase 3/4
Current Use Land Use Change Tax Warrant A-5W – Norja (above)
Intent to Cut Timber #13-283-20T – Haver (228-023)

Brooks asked Fire Chief Jeffrey Eldridge to check to the Banfield Hollow plans at the Fire Department based upon the Land Use Change Tax Warrant to determine the necessary timing of the installation of the next underground water cistern.

7:07 PM – Brooks made a **motion** to adjourn, seconded by Shackford, and so voted **3-0**. The Selectmen then took part in the Advisory Budget Committee meeting.

NEXT SELECTMEN'S MEETING – The next Selectmen's meeting will be posted for Wednesday, January 22, 2014 at 5:30 p.m. in the Town Hall meeting room.

Respectfully submitted,

Melissa S. Arias, Town Administrator
Recording Secretary