

# TOWN OF LITCHFIELD BOARD OF SELECTMEN

## April 13, 2015

### Selectmen's Meeting

Members Present: Steven D. Perry, Chairman  
John R. Brunelle, Vice Chairman  
Frank A. Byron  
Brent T. Lemire - Arrived Late

Absent: Kevin C. Bourque - Excused

Also Present: Jason Hoch, Town Administrator

5:00 p.m. Paperwork review  
6:00 p.m. Call to Order  
7:40 p.m. Non-Public Session - RSA 91-A:3,II(a) - Compensation

### Pledge of Allegiance

#### Review of Items for Consent:

1. Minutes of March 23, 2015
2. Approval of Account Payable Manifest (\$39,885.05)
3. Approval of Payroll Manifest (\$43,878.44)
4. Reappointment of Keith Buxton and Colleen Gamache to Recreation Commission
5. Elderly Exemption Approval
6. Veteran's Exemption Denial
7. Intent to Cut - Map 15, Lot 8
8. Intent to Cut (Supplemental) - Map 15, Lot 2
9. Abatement Approval - Map 10, Lot 57
10. Abatement Approval - Map 5, Lot 177
11. Abatement Approval - Map 6, Lot 86A
12. Abatement Denial - NNETO (Fairpoint)
13. Senior Project 5K Walk Run
14. Unity Relay March
15. Easement Deeds - Hamel Circle
16. Release of Easement - Pinewood

### Approval of Consent Items

Selectman S. Perry reads aloud the Items for Consent

Selectman J. Brunelle **motioned** for the Board of Selectmen to approve the items for consent

Selectman F. Byron **seconds** the motion. **Vote carries 3-0-0.**

## **Request for Items - Other Business - None**

### **Pipeline Discussion**

#### **Conflict of Interest**

Administrator J. Hoch states that the Board received a letter from Selectmen F. Byron stating that he had a conflict of interest. He would like Selectman F. Byron to explain this for public record.

Selectman F. Byron states that while preparing his income taxes he was informed he is a stockholder with the company that is installing the gas pipeline in New Hampshire/Litchfield. He feels it is his duty to recuse himself from discussions regarding the Kinder Morgan Pipeline Project as a member of the Board of Selectmen.

The Board discusses that others have 401 Investments that could be invested in these stocks as well.

Selectman F. Byron states that his investments are directly related to the company and feels it is a conflict of interest and it's necessary for him to step down from the Board while this is discussed.

Selectman F. Byron steps off the Board at 6:07pm

Selectman S. Perry asks J. Hoch if the Board can continue with the meeting as there are only two members seated until Selectman B. Lemire arrives.

Administrator J. Hoch states that there are informational items he can discuss that are related to the pipeline project that do not require the Board to take any action until Selectman B. Lemire arrives.

#### **Letter To FERC & Congressional Delegation**

J. Hoch states that the Board of Selectmen have not met since the presentation by Kinder Morgan at Campbell High School in March. He mentions that a letter has been drafted by he and the Board of Selectmen to Kimberly Bose, Secretary of the Federal Energy Regulatory Commission (FERC), regarding the Gas Pipeline. Jason reads this letter for the Board and Public -

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Dear Secretary Bose:

As the elected governing body, we wish to share concerns about Kinder Morgan's Northeast Energy Direct (NED) project proposed to pass through our community. The New Hampshire portions of this route includes approximately 2.68 miles in Litchfield with an estimated impact of 67 landowners.

1. The current route passes through a residential neighborhood with cul-de-sacs at each end, leaving a single point of access and egress in the case of any hazard during either construction or operation. More troubling, the proposed right of way area severely impacts 13 residential properties along Wren Street and Mockingbird Lane.

The current utility easement for Eversource bisects these lots which are approximately an acre each. Further disruptions with the necessary setbacks for the pipeline from the existing electrical service appears to severely hamper the use and enjoyment of these properties. Additionally, with such a major disruption to the use and enjoyment of these properties, we are concerned about the detrimental impact on resale value which not only directly impacts these residents, but also the town generally through the loss of tax base.

2. Currently, there are five major pipeline projects proposed for New England that have the potential to carry 4.5 billion cubic feet of gas per day, which appears to be more than four times the amount that any independent study has identified as necessary to meet the region's future need. Clearly, it is not feasible from an economic perspective for all of these projects to proceed simultaneously. In this light, the Kinder Morgan project seems excessive and the actual need relative to other activities in market has not been adequately demonstrated to justify the disruption to our community. We are further concerned about the long run viability of the Kinder Morgan project, if market conditions do not warrant its continued operation after installation in Litchfield. Our residents may endure the disruption for no long term community or regional benefit.
3. The routing of the so called "Powerline Alternative" through New Hampshire appears to be an action of perceived regulatory convenience. The pipeline enters Massachusetts and ends in Massachusetts, but has an unnecessary diversion into New Hampshire. No new distribution facilities have been proposed for New Hampshire and no new electricity generators have been sited or approved in New Hampshire. Moreover, the major electric distribution and generation company in the state and the company that services Litchfield, Eversource Energy as committed as a co-developer of the competing Spectra Energy Access Northeast project. Again, we do not see why our community should endure the disruption by the speculative Kinder Morgan project
4. No meaningful commitment has been made to expand residential and commercial natural gas service as a result of this pipeline. While our local provider, Liberty Utilities, has committed to use a small portion of the massive capacity of the Kinder Morgan project, their actual agreement does not appear to represent any expansions of capacity in our community. Small portions of Litchfield have natural gas service from Liberty Utilities and others have sought our Board's assistance to expand that service. However, Liberty's lack of commitment on this, tied to the new capacity of this proposed pipeline, does not demonstrate any benefit of the Kinder Morgan pipeline to Litchfield. Further, we have heard testimony at a recent hearing that we hosted, that a major commercial/industrial user in town has had requests from Liberty to reduce usage during peak demand periods. Yet, no specific guaranty has been made that the enhanced regional capacity proposed by the Kinder Morgan pipeline will address this business disruption.

This project has generated a significant amount of interest and concern in our community. We urge careful consideration of these issues and further request that one of the required scoping meetings be held in Litchfield so that our resident's concerns can be heard directly.

cc: Senator Jeanne Shaheen  
Senator Kelly Ayotte  
Representative Anne Kuster  
Governor Margaret Hassan

Jason recommends that once the Board comes to a conclusion if this letter or some modified version is agreed upon that copies be sent to FERC, Congressional Delegation as well as the Governor.

Selectman S. Perry states that at this point the Board cannot vote to accept this letter due to only two members being present, and asks Jason how he would like to proceed with the meeting.

J. Hoch states that he can proceed updating everyone with some additional information he has, by which time Selectman B. Lemire should arrive.

Steven Calawa a member of the public audience asks Jason if a conservation report from the Conservation Commission should be attached with this letter.

Administrator J. Hoch states that the Conservation Commission is continuing to look at additional issues. Also that a lot of the preservation and conservation issues all go through section 216 of the formal federal review. Which at some point will trigger the State Site Evaluation Committee for more information, and they will be looking for reports. He mentions they started looking at some information now, and as a part of a region he and others have pulled regional information through NRPC and forwarded it.

Steven Calawa stated that Jason in his letter mentioned cul-de-sacs and egress but noticed that he did not mention or include McElwain Drive. Which does not have any egress also and is within the blasting zone, with a school located on the street.

Selectman S. Perry tables any further public discussion until 6:30 when the floor will be open for public input.

### **Assessed Value**

J. Hoch states that at the last BOS meeting he was asked to speak with the town assessor about potential assessed value changes. Avatar responded by stating that Gary their utility assessor, is working on a report for Merrimack to get a sense of the overall impact, any loss in value to abutting properties and overall increase in value due to the pipeline. This probably will not be ready until June 1, 2015. They mention that Gary has been quoting a value of about 1 ½ per mile of pipeline, but this is just a rough ballpark and things like pump stations etc. will affect that value. Jason states that DRA numbers in no way will be used. He mentions this is notable because the estimates Kinder Morgan has provided to Litchfield have been based on the Department of Revenue Administrations approach to utility assessing, which is lower than local values everywhere. Which Jason states is why eventually most

Town's who host them end up suing.

Jason also shared a letter from New Ipswich stating that they had their tax assessor look at tax revenue expected from a proposed pipeline, and they estimated that it would be significantly lower than suggested by the line's developer, Kinder Morgan.

Jason tells the Board that as he has mentioned if this is considered a pro/con Litchfield will not see a windfall one way or another from this project.

### **Fire Chief Comments**

Chief Fraitzl wrote a letter to Administrator J. Hoch, which he is allowing Jason to share this evening. Chief Fraitzl wrote as follows -

I was in attendance for the information session last month and it is clearly obvious that the pipeline has generated a significant amount of concern at all levels. However, there is no question that there is a need to find adequate means to provide sources of energy to meet the current and future demands of our society.

Without any type of plan or formal design, it is very hard to evaluate specific risks and/or offer concise response concerns. In a general context, the LFD would respond to an incident similar to most other incidents by evaluating the risk and developing a plan of action that provides for the safety of the residents and firefighters while mitigating the hazard.

Should the pipeline be installed, as Kinder-Morgan indicated in the information session, the local fire departments would receive training relative to responding to an incident involving the pipeline. Further, given that this pipeline would affect multiple communities, I would expect that there would be other opportunities statewide for training as well. In fact there is a new program just being offered on pipeline safety through the State Fire Marshal's office and the NH Association of Fire Chiefs.

There is no question that if the project does proceed, there will be some impact to the fire department, however I don't anticipate that it would be over burdening. Assuming there are no above ground valves or appliances, the risk of leakage would most likely only come from an accident involving excavation around the pipe.

I am happy to field any other questions that the board might have.

Regards,  
Frank

J. Hoch states that he and Chief Fraitzl have had discussions regarding this topic and they both have been involved and served at times in their careers with towns that have had transmission pipelines and have had no notable burden impact to the community. He mentions that the Fire Department also does training with the Manchester Airport, as well as chemical training for Jones Chemical across the river.

## **Town Owned Parcels**

J. Hoch states that there are two Town owned parcels of land that are part of the initial plan for the pipeline. They are Map 10-Lot 60 and Map14-Lot 125 (borders with Londonderry). Kinder Morgan would like permission to access these parcels in order to survey for the project.

When Jason reviewed the deeds for these parcels he found the first (Map10-Lot 60) has no restraints and can be accessed with Boards permission. However, (Map 12-Lot 125) the one abutting Londonderry is conservation land and has some constraints restricting the use of this piece of land. He discussed this with counsel and their view was permission from the Conservation Commission would be needed. Also that the deed restrictions include no dredging or filling and no removal of trees with a diameter of 6 inches or more, structures may be located, but only with the permission of the CC. There are also access restrictions to this lot and can be made only by Town Officials for official town business. Counsel believes that the Board of Selectmen could grant access, but feels it would not be acceptable under the terms of the easement; and if the BOS does grant access, Harkview Road Associates would have grounds to sue to prevent that access. Counsel states that based on their review of Map 14-Lot 125 the only way Kinder Morgan gets on this property is to begin a condemnation action, which automatically give them access.

Jason tells the Board that FERC can grant Kinder Morgan a certificate called a “public convenience and necessity” status which would give them greater authority to access the property.

Board and Jason discuss this matter. Jason states that what it comes down to is if FERC wants and feels the need for this project to proceed, then the battle for Litchfield would be uphill. Which is why even though the list is long of reasons why this pipeline should not come to Litchfield, in his letter he kept it to reasons why FERC should not approve this project. Jason also mentions that as residence have sent in letters or information he has shared it with the Board and is continuing to post information to the town website. He is posting a mailing list and anyone wanting to be added can do so. He mentions that information is continuing to come in and a great deal of good information is coming from NRPC, which he has included on the town website.

Selectman J. Brunelle asks if there is any legal action that Litchfield can take at this time? Selectman S. Perry also asks if Litchfield can/should join in a legal pool with other towns, what might the cost be.

Jason states that the Board can review a section of documents on their site under “Draft Scope of Work” which discusses topics and areas where Litchfield might engage legal counsel on its own or as part of a NH Municipality Group. Between the Public Utilities Commission (PUC), Federal Energy Regulatory Commission (FERC) and the NH Site Evaluation Committee the group recommends emphasizing one regulatory agency and they feel that is FERC. Jason states that they are struggling with what makes the most sense for right now and what the cost might look like. He tells the Board that some towns have raised a little money, others such as Litchfield have not. He mentions that from his information if Litchfield were to hire legal counsel specializing in utility affairs the cost would be around \$200-\$250/hour, and if shared by 10 other municipalities it would bring it to \$25/hour.

However, the amount or magnitude of hours is the question and no one has planned for this or have funds available, and lots of money can be spent very quickly. So Jason states that the group is reviewing options and waiting on proposals (they have received back two).

Selectman J. Brunelle asks Jason if he know the States position on this project.

J. Hoch mentions that the States position is to allow continued conversation and review, there has been no mention of a pro or con stance. He tells the Board the State has been looking into different energy sources for a few years, which makes you think there may be some support. But it has not been the States as of yet.

Selectman B. Lemire arrives 6:33pm

Selectman J. Brunell mentions that the letter Jason drafted contains the views and conversations with the Board of Selectmen and feels the letter should be approved. He also feels the Community should write letters and voice their opinions to FERC and their Congressional Delegation as well.

Selectman S. Perry asks if the Board would like to take action to approve the letter. Board decides to open the floor for public comment first.

### **Public Input**

Steven Calawa 168 Charles Bancroft Highway, Mr. Calawa feels the Town is not going to get anywhere on this issue as a little community. He states that there needs to be a Southern New Hampshire Pipeline Coalition, made up of a few members from all of the small towns affected. Mr. Calawa feels they will not listen to small communities like Litchfield, they will read letters and just move on. But by forming and becoming a larger Coalition they can have a bigger voice to gain the attention of Congressmen and the Energy Commission. Which could have more power politically if they do not listen.

Karen Hodge 192 Charles Bancroft Highway, Ms. Hodge heard that they want to create an “energy corridor”, which will be accessed along Rt. 93 and Rt. 89. She mentions the Governor is supporting this and would like to know if they are trying to make this a law, and how will it affect the pipeline.

Administrator J. Hoch states that he feels this does not impact the pipeline at all. The conversations Litchfield is having now have been happening up North for three years on the Northern Pass Project, which is to bring hydro power down from Quebec. So he mentions that the inner state corridor conversations come out of those happenings more than these pipeline conversations involving Litchfield.

Jodi Fraser 190 Charles Bancroft Highway, asks J. Hoch who is the letter from the Board of Selectmen being sent to.

Jason states it is addressed to, Kimberly Bose, Secretary of the Federal Energy Regulatory Commission (FERC), Senator Jeanne Shaheen, Senator Kelly Ayotte, Representative Anne Kuster, Governor Margaret Hassan.

Ms. Fraser asks Jason if he feels the Community should send copies of their letters to these Representatives as well.

Jason states that it can't hurt and that when the letter is approved by the BOS he will post the

letter and the addresses on the town website.

Jodi would also like Jason to include the proximity of the schools to the pipeline in the letter. Selectman J. Brunelle would like the letter sent to the Towns local Representatives/Senators also.

Catherine Thomas 8 Mike Lane, asks the Board if they will be taking a vote stating if the members are for or against the pipeline project. She mentions that she felt this should of been on the Warrants at Town Meeting.

Selectman S. Perry states that at the time time Warrants were being put together it was to early there was very little information regarding this topic known.

Catherine states that many Towns did include this in their Warrants.

Jason states those Towns hold traditional Town Meetings, and they have the luxury of putting things together in late February early March. Where Litchfield has to have their information together in January. Also no meeting or information was given by Kinder Morgan to Litchfield till after Town Meeting, and the earliest they could speak and inform the Board or the Town was in March. He mentions that Kinder Morgan has not been forthcoming.

Ms. Thomas states that any Company that is not being forthcoming, Litchfield should oppose until they are forthwrite.

Board states that the Boards vote at the time was to take no stance until more information was given. Catherine asks if the Board will be taking a vote to support or oppose this project. She feels an opinion that has been voted on and approved will be taken more seriously. Ms. Thomas also feels all the Town's Committees and Board should be taking a stance and writing letters expressing their opinions either way. She has approached the School Board and feels all Boards need to be involved. She states that Litchfield is the most passive Town so far. Again she states she would like all Committees and Boards to take a stance and decide if this is good for Litchfield and if they decide it is not then we as a Town should fight it in every way possible. Maybe the course of the project cannot be changed but at least Litchfield will know that they tried.

Catherine mentions that Wilmington got it out of their Town due to well water concerns. Litchfield has a majority of homes that have wells. There are numerous reasons for this project not to go through Litchfield, and each Committee could highlight these concerns and have their voices be heard to put pressure on Elected Officials and State Representatives.

Jennifer Diener 9 Burke Street, had a question regarding the large company mentioned in the Boards letter that Jason read. The owner of this company spoke at the Kinder Morgan meeting stating that his company needed to shut down during peak hours. She would like to know if the company received incentives to shut down, she feels it would be beneficial to look into.

J. Hoch states that the company owner has been asked in conversations how often they have been asked to shut down their operations, and if it has been an inconvenience. He tells Ms. Diener that he did not ask the incentive question, but felt this was not voluntary from the company.



Margaret Parent 6 Talent Road, she would like to thank the Selectmen and Administrator J. Hoch for holding the informational meeting with Kinder Morgan. Ms. Parent felt it was good for the Board to know how the Community felt about the pipeline project. She states that a lot of the views and questions that were discussed have been included in the letter Jason read this evening. She was also glad to see a large part of the Community (over 300 people) show up and support the 66 residence who may have this in their backyards. Margaret supports the letter and thanks the Board.

Frank Byron 8 Mallard Court, he states he is also Litchfields State Representative. He mentions that it has been discussed this evening that the State has not taken a position on the pipeline as of yet. He mentions that while the Governor has not come out to state she is for the Kinder Morgan Pipeline, Frank states that be assured a company like Kinder Morgan does not send a pipeline into New Hampshire without being invited. He mentions that the Governor has stated on many occasions, (one of which was a meeting of Governors) where she expressed the desire to have a pipeline into New Hampshire.

Selectman F. Byron states that Litchfield has not been able to get Kinder Morgan to respond to this Board of Selectmen or to Administrators J. Hochs many weeks of requests, which they broke many promises to come to discuss pipeline issues. He states that as a Town Representative he went to a meeting that was being held in Hudson, and ended up physically yelling at the Kinder Morgan representatives trying to get them to commit to a meeting with Litchfield. He mentions that he was so concerned, that at one point he thought he was going to be escorted out by the police, because he was getting so vocal about this. Selectman F. Byron states that if Kinder Morgan and their representative are not willing to work with Litchfield and towns involved, they are not going to be good partners in any situation. He states that he has serious doubts and concerns that Kinder Morgan is the type of company you would want running a pipeline through your town.

Frank tells the Board that there is a pipeline already being planned which runs up the seacoast and connects to the Maritime Provinces, moving gas into the same distribution center in Dracut Massachusetts, as Kinder Morgan is proposing. It will take gas out of the same gas aquifer as is coming from Pennsylvania. That pipeline will not be run through existing pipeline territory.

Selectman F. Byron states that there are already been a significant number of companies which produce electricity in New Hampshire that have signed on as partners to this pipeline. None of these companies are signing onto the Kinder Morgan pipeline. So he has serious questions as to why a pipeline by Kinder Morgan needs to been put through Litchfield, or why one is needed here at all. There is no need to duplicate and have a pipeline run to the same distribution center in Dracut Massachusetts. He mentions that the pipeline that will be running up the seacoast will be much bigger than what is currently in place. He feels there is only a limited amount of need for the gas to a region for these utility companies, and Kinder Morgan is not going to be tied to any of them. Kinder Morgan's purpose is to run gas into homes, to allow companies such as Liberty Gas to expand networks into communities like Litchfield. He states that as a Selectman he tried to get Liberty to run pipeline up Albuquerque Avenue so citizens who wanted gas could tie into the lines, and Liberty has no interest in doing so. So

he fails to see why Litchfield would need a Kinder Morgan pipeline now. He mentions that Kinder Morgan has promised Litchfield \$280,000 in tax revenue, and would like to remind the Board that companies such as Kinder Morgan and Fairpoint have always fought against any taxation on a public utility. Litchfield is now in a lawsuit with Fairpoint. He states that Kinder Morgan may promise riches of \$280,000 which he feels is not that significant an input to the town's tax base. But feels Kinder Morgan will be the first in line to the Supreme Court of New Hampshire trying to fight this.

Selectman F. Byron tells the Board that as a State Representative he represents Litchfield at the New Hampshire House, and is the the Board would like him to do something on the Town's behalf the Board needs to take a position. He can not raise "hell" on a state level and by chance have his legs cut out from underneath if the BOS does not wish to take a position on this matter. So he states that he needs a clear cut decision from this board, he then can push buttons and have his voice heard at the State on behalf of Litchfield. He mentions that his ability is limited but he can get fellow Representatives/Senators to try and have more of a voice for Towns and Municipalities in the State.

Karen Hodge 192 Charles Bancroft Highway, states that as individuals they can write to FERC and request a Scoping Meeting for Litchfield.

#### **Planning Board Re: Impact Fee Update**

Tom Young and Russ Blanchette address the Board of Selectmen regarding the Impact Fee Update. Tom Young mentions that the Board received the Impact Fee update packet that Bruce Mayberry of BCM Planning put together. Mr. Young states that this update changes the way the impact fees are formulated. Instead of having multiple impact fees now there will be only one. He states that the Board has had a chance to review all the documents and would like to know if there are any questions he can answer before adopting.

Selectman F. Byron would like to know if Mr. Mayberry is finished and the report is complete Tom Young tells the Board that yes the report is complete, both School and Municipal are all integrated together. Tom also mentions a document shared with the Board showing the update that the Planning Board did to the Town Ordinance as a result of Town Meeting. Selectman F. Byron would like to know what the assessment would be on a home costing \$250,000.

Tom Young states that he did not figure any information out, but that the Board can calculate any amount based on the fee schedule in the packet (which is based on sq. footage not valuation).

Selectman B. Lemire would like to know if there has been any analysis done on what is currently on the books verses what will be in place with these new impact fee calculations. Tom Young tells the Board that is what Bruce Mayberry did. Then they took his findings as well as comparisons from 5 or 6 other Towns and compared all to make sure they were within the same range.

Selectman S. Perry asks if this has gone through Counsel for approval and the Town now has an Impact Fee Ordinance and Fee Schedule that is binding in court.

Administrator J. Hoch states yes. Board Thanks Mr. Young and Mr. Blanchette for their time.

Selectman F. Byron **motioned** for the Board of Selectmen to approve for the Town of Litchfield the Impact Fee Ordinance and the Methodology Fees/Reports documented from the Planning Board letter dated March 4, 2015.

Selectman B. Lemire **seconds** the motion. **Vote carries 4-0-0.**

## **Administrator Report**

### **New Business - None**

### **Old Business**

#### **DES Review of Darrah Pond Water Levels**

Administrator J. Hoch tells the Board that there have been discussions regarding the decline of water levels at Darrah Pond. Discussions have come from residents, Hudson, Department of Environmental Services (DES), Governor's Office, Pennichuck and Litchfield. Jason states that he shared a letter from the Governor's Office stating that they would be directing DES to work with everyone involved to do a regional water supply review. He states that DES is looking to partner with the Town of Hudson, Litchfield and Pennichuck Water Works to assess opportunities to manage existing and future regional water supply issues in a way that will benefit all stakeholders and the environment. Jason believes this will be looking at Hudson's use of the wells and the impact on Darrah Pond, as well as Litchfield's use of groundwater wells to maintain the Town's fields, and possibilities that Pennichuck may have about providing water from other sources.

Selectman S. Perry mentions that he is confused at their concern about Litchfield's usage of water to irrigate/water the Town fields. Opposed to what is pumped out of that pond daily by others.

Jason states that Litchfield is the lowest regulatory target and easy for DES to require and compel information, tracking and activity than others involved. Jason states in fairness those wells were added and there has been no real tracking or reporting to DES required. Which Jason states is now obligated to be done.

Selectman F. Byron asks which well is in question

Jason states both at this time

Selectman F. Byron and Board discuss some 2003 issues with Pennichuck wanting the BOS to implement a water ban (even on private wells). Which was never done.

Selectman F. Byron also wanted to state that if they are worried about that aquifer, because it supplies the Town of Hudson. They should be looking into what crosses or is proposed to cross that aquifer, (because if it becomes contaminated with say natural gas just as an example), it would shut down a water supply to two Towns.

#### **January Storm - FEMA Reimbursement**

Jason states that the President approved the disaster declaration for January snowstorm which was January 26- January 28, 2015. Briefing from the State and FEMA kicked off today through tomorrow. Jason mentions that he had to complete a lot of the paperwork early when they were trying to qualify the storm for disaster declaration, so it should be relatively easy.

### Cable Operators Conversion

J. Hoch tells the Board that as he mentioned last month, based on an anonymous complaint received by the Department of Labor. Cable Committee's practice of considering operators as contractors was determined to be inconsistent with labor law. Jason worked with Dick Pentheny, Chairman of the Cable Committee to adjust the relationship so that the operators are now part-time employees and paid weekly through payroll. They worked out the logistics of collection and distribution of timesheets and as of the week of March 23, all cable operators have been paid as part-time employees.

Jason states that he shared the letter from the Department of Labor which shows the violations and proposed penalty. Based on the way they calculated the penalty, their proposed fine would have been \$4,800. Jason attended an informal conference with the Department of Labor Administrator on April 7, 2015 and the fine was reduced to \$2,600 (\$2,500 + \$100 for the general violation). It was portrayed to J. Hoch that the \$2,500 was the "minimum fine", which he questioned and felt was steep, especially because the Town acted quickly to fix the situation even before the Department's decision was given. But upon reviewing the law, section reads "(d) If the Commissioner finds that an employer has misrepresented the relationship between the employer and the person providing services, the Commissioner may assess a civil penalty of up to \$2,500; in addition, such employer may be assessed a civil penalty of \$100 per employee for each day of noncompliance". So Jason states that the next step would be a formal hearing. Based on the disconnect between the portrayal of the minimum when he asked for further relief, as well as the overall scale of the fine relative to the involved wages for a year (almost a full year of payment to cable operators), Jason is inclined to pursue the formal hearing. He spoke with Laura (Counsel) who also recommended proceeding. He tells the Board that he is inclined to work with her on this; however, there is a balance there, he states it does no good to challenge the fine and pay roughly the equivalent in legal fees.

Selectman B. Lemire states that it will have to be paid regardless, for the fine or Counsel. He feels that someone needs to challenge it and take that chance, and there is a possibility that the fine will be reduced. Lemire mentions that other Towns have had this happen or are going through this, and if it helps another Town supports moving forward with the formal hearing.

Selectman S. Perry would also like to pursue the issue.

Selectman J. Brunelle states that he still feels the people took the job as a "1099" not a W2 and does not understand what was wrong with that.

Jason states the Town is at fault because the independent contractor's could not control their time sheets, the Town chose and designated the times for them to do their jobs, making them employees.

Selectman J. Brunelle asks if they get a benefit in being an employee rather than an independent contractor.

Jason tells them yes they are covered under Workers Compensation rather than the Towns Property Liability Insurance

Jason states that he will go to a formal hearing if the Board approves it.

Selectman B. Lemire **motioned** for Jason Hoch, Town Administrator to work with Counsel to appeal a fine issued from the Department of Labor on the Town of Litchfield.

Selectman F. Byron **seconds** the motion. **Vote carries 4-0-0.**

### **Other Items**

#### **Stormwater Permit**

Administrator J. Hoch mentions that he attended the Nashua Regional Stormwater Coalition meeting last month. He states that in the ongoing saga of a potentially revised EPA permit, the latest is that it is expected to be released in June, with an effective date of December. The first submission, the Notice of Intent, is due within 90 days of the effective date (which would be March of 2016).

#### **Police Academy Graduation**

Jason tells the Board that last Friday April 10th a few individuals from the Town went to the Police Academy to see Officer Rachael Lang graduate. She stated duty today.

#### **Policy Review**

J. Hoch mentions that it is time once again for the Boards annual policy review. So for the next Board meeting he would like to review Background, Cash Receipts, Conference & Meeting, Credit Card and Financial Reconciliation. He does not feel there are any major issues or large revisions to these policies. Jason shares where the Board can review all the policies in their section of the website, and that they can comment on any changes or questions.

Jason would also like to mention to the Board that the Auditors are here at Town Hall today and tomorrow, and so far going smoothly with no significant issues.

### **Selectman Reports**

Selectman F. Byron mentions that he attended the first Budget Committee meeting and Cindy Couture was elected as Chairman and Kerri Douglas was elected as Vice-Chairman. He mentions that Sunday April 12, 2015 he attended an Eagle Scout Ceremony where Lawrence Smith, III who received his Eagle award and presented on behalf of the Board of Selectmen a certificate for recognition of that award.

Selectman B. Lemire tells the Board that he will miss at least two meetings due to having a procedure done. He will update the Board on the dates.

Selectman S. Perry mentions he attended a Planning Board meeting last week. He states that the pipeline was brought up, however, it was tabled until further review before having a vote. It was also discussed about redoing the Master Plan, there was discussion about if it needed to be a modification or a complete re-write. He thinks they decided on a modification.

### **Items moved from consent - None**

### **Other Business**

Selectman F. Byron would like an update on the Agricultural Commission

Jason tells the Board that it wa approved at Town Meeting, but he has not reached out as of yet or started the process of looking for members.

Selectman F. Byron **motioned** for the Board to extend the contract of Fire Chief Fraitzl J. Hoch states that the Board has already extended the contract at a previous meeting to April 30, 2015. Selectman F. Byron **withdraws** his motion.

Selectman S. Perry **motioned** for the Board of Selectmen to adjourn the public portions of the meeting to go into a non-public session per RSA 91-A:3, II(a) Compensation.

Roll call vote - Selectman B. Lemire (yes), Selectman F. Byron (yes), Selectman J. Brunelle (yes) and Selectman S. Perry (yes). Board will come out of non-public to adjourn.

The next Board of Selectmen's meeting will be on April 27, 2015 at 6:00pm at Town Hall.

*Approved April 27, 2015*