

**NEW DURHAM BOARD OF SELECTMEN  
New Durham Community Room  
April 17, 2017, 1:00p.m.**

**Final Approved 05-04-17**

**Present**

Chair David Swenson  
Selectman Cecile Chase  
Selectman Rod Doherty

**Also Present:**

Scott Kinmond, Town Administrator  
Richard Sager, Esq., *Sager and Smith, PLLC (Present 1 – 1:45 pm)*  
Stephen Bennett, Esq., *Wadleigh, Starr and Peters, PLLC (Present 1:45 – 2:30 pm)*  
Kathleen Peahl, Esq., *Wadleigh, Starr and Peters, PLLC (Present 1:45 – 2:30 pm)*  
Walter Mitchell, Esq., *Mitchell Municipal Group, P.A. (Present 2:30 – 3:15 pm)*  
Laura Spector-Morgan, Esq., *Mitchell Municipal Group, P.A. (Present 2:30 – 3:15 pm)*

**Call to Order**

Chair Swenson called the meeting to order at 1:00 p.m. He stated the purpose of this meeting is to meet with the respondents to the legal firm RFP.

**Law Firm Presentations**

***Sager and Haskell, PLLC***

Mr. Richard Sager, Esq. of Sager and Smith, PLLC was introduced. He explained the firm is now Sager and Smith, PLLC, having changed since the submission of the RFP. Chair Swenson explained the firm has recently done work for the Town, particularly with the Zoning Board of Adjustment. Chair Swenson asked Mr. Sager about his experience with municipalities. Mr. Sager stated he has been practicing law since 1983 and provided a copy of his professional resume. Mr. Sager stated he likes working for municipalities and feels he provides practical advice. He also gave an overview of his personal interests and other business ventures. Chair Swenson asked a series of questions including examples of the firm's most difficult cases, (labor law with employee termination and 91-A issues), legal specialty (land use), number of similar size towns in his client list, and estimated annual cost recognizing it is issue driven and not a set amount (did not provide firm estimate). Mr. Doherty asked how Mr. Sager would handle if a Town disregarded of his legal advice, particularly with regards to The Right to Know Law. Mr. Sager stated his job is to provide advice and would continue to do so. The Board of Selectmen presented scenarios and asked Mr. Sager for his opinion on how he would handle the situations. Mr. Sager stated most of his cases have involved land use issues; most of his litigation outside of municipalities is real estate related. Mr. Sager asked the time frame for the Board of Selectmen making a decision. Chair Swenson replied he hopes to have a decision within a few days.

***Wadleigh, Starr and Peters, PLLC***

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Mr. Stephen Bennett, Esq. of Wadleigh, Starr, and Peters, PLLC was introduced and gave an overview of his professional experience and areas of expertise which include municipal law, employment and labor law, planning, and zoning.

Ms. Kathleen Peahl, Esq. was introduced and stated she has been with the firm since 1989 and is now the managing partner. She gave a summary of her professional experience with municipalities and counties, with areas of expertise which include wage, labor, discrimination, and Right to Know law.

Chair Swenson asked who would be the point of contact in the firm. Mr. Bennett replied he would be the main contact with the Town and would field most of their questions and cover general municipal work. Chair Swenson asked a series of questions including examples of the firm's most difficult cases, (police officer with police commission town), legal specialty (larger firm covers virtually all specialties), number of similar size towns in his client list (4 – 6 towns including Mt. Vernon), and estimated annual cost recognizing it is issue driven and not a set amount (\$30K - \$40K). Selectman Doherty asked how they would handle a situation where advice is not followed by a client. Ms. Peahl replied she always provides her advice in writing and they try to give a recommended course of action along with the options along with possible outcomes. Mr. Bennett replied that in the event a client ignores advice, particularly if it is a violation of a law, they would not remain involved with unethical or illegal choices.

***Mitchell Municipal Group, P.A.***

Walter Mitchell, Esq. was introduced and explained usually all four of the partners are present but were unable to do so today. He explained the firm has no private clients and only serves municipalities. Ms. Spector-Morgan explained the firm's experience with towns and municipalities and it was clarified the four partners work together and function as a very small practice. Chair Swenson asked Mr. Mitchell and Ms. Spector-Morgan about their professional experience and areas of specialty. Mr. Mitchell replied he does most of the trial work within the firm and Ms Spector Morgan is more focused on labor law. Chair Swenson asked who would be the Town's primary contact and it was stated Ms. Spector-Morgan would be that person. She then gave an example of the issue they do and do not handle which was labor negotiations, i.e. union contracts. Chair Swenson asked a series of questions including examples of the firm's most difficult cases, (issues where Select Board differs), legal specialty (labor law and land use), number of similar size towns in his client list, and estimated annual cost recognizing it is issue driven and not a set amount (\$12K - \$15K). Town Administrator Kinmond asked how the firm handles the 60+ municipalities time-wise. Ms. Spector-Morgan replied they handle it well Chair Swenson asked a series of questions including examples of the firm's most difficult cases, (labor law with employee termination and 91-A issues), legal specialty (land use), number of similar size towns in his client list, and estimated annual cost recognizing it is issue driven and not a set amount (did not provide firm estimate). and rarely do multiple urgencies come at the same time. Selectman Doherty asked how they would handle a situation where advice of the firm is not followed. Mr. Mitchell replied that they are a legal firm that is not the decision maker but gives advics. If the client chooses to go down a path they can't defend, they may choose to separate. There was

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discussion of interpretation and application of the Right to Know Law. There was also discussion of legal expense calculation and possible scenarios.

After the representatives of the legal firms left the meeting, the Board of Selectmen discussed their initial thoughts on both the financial and legal presentations. Selectman Chase stated she liked Roberts and Greene, PLLC and thought they were knowledgeable. It was noted the difference in the audit bids was \$3,000. Town Administrator Kinmond stated he wants to be sure to have a law group that can take care of all the Town's legal needs, noting his concerns with going with a bigger firm and competing for time. By consensus it was agreed to postpone decisions on both the audit and legal firm selection until the next regularly scheduled Select Board meeting on April 20, 2017.

The agenda for the upcoming Board of Selectmen meeting was reviewed and discussed. Chair Swenson added a few topics under New Business.

**Other**

Town Administrator Kinmond stated the finance assistant candidate accepted the modified conditional offer and background check information has been submitted. The Board of Selectmen reviewed the agenda for the next Board of Selectmen meeting and Town Administrator Kinmond explained the process of reviewing and editing for discussion. He stated it is good for the public to be able to see the topics for discussion. Chair Swenson stated he is going to strongly encourage the sale of tax-deeded properties and there was discussion of the process to do so.

**Appointment**

Town Administrator Kinmond confirmed the background checks have been completed for the Administrative Assistant candidate with clean, positive background / reference checks.

**Chair Swenson made a motion to hire Anita Soucy as Administrative Assistant II at a rate of \$18.00 per hour with a start date on or about May 1, 2017. Selectman Chase seconded the motion. Motion passed, 3-0-0.**

**Adjourn**

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

The meeting was adjourned at 3:25p.m.

Respectfully Submitted,

Jennifer Riel, Recording Secretary