

To: Rudy Rosiello, New Durham Select Board Member

Date: May 12, 2025

Re: Complaint re: behavior of select board chair David Swenson

I am making the following formal complaint against New Durham Select Board Chair David Swenson:

1. Violations of 91A with regard to meetings of the BOS specific to Fire Chief Peter Varney, in violation of his oath of office.
2. A pattern of Conflict of Interest with regard to New Durham Fire Chief Peter Varney, in violation of the Town's Ethics Policy.
3. Breaching the confidentiality of an employee, specifically Peter Varney, in violation of his oath of office.
4. Swenson made defamatory statements, which had no factual basis, about Peter Varney to a resident while in the position of Chair of the New Durham Select Board, in violation of his oath of office.
5. Violation of 2008 Warrant Article #23 as passed by the voters of New Durham.
6. Being complicit in directing the New Durham Police Chief, while on duty and in his official capacity, to solicit applicants for the fire chief position at the BOS request in order to unseat current Fire Chief Peter Varney.

I have Peter Varney's permission to present this complaint publicly to the BOS and for it to be entered into the record as a public document. I have documentation supporting his authorization to present this as a public document and attesting to the facts pertaining to him personally.

1. In 2008, the town, through warrant article #23, established criteria for the Fire Department organization, the term of appointment for a Fire Chief, and the manner in which a Fire Chief would be chosen. The residents voted for the 3-year term and for an oral interview committee comprising of 2 New Durham Fire Department Officers, the chief of another community and a select board member. The warrant article was effective one year from the date of passage.
2. Peter Varney had been Fire Chief at the time of the warrant article passage, and he was sworn in for a three-year term upon the effective date of the warrant article.
3. By 2014, Peter Varney had been in hold-over status as Fire Chief for an extended period of time with no vote to reappoint him for a 3-year term per the warrant article. As a result of the hold-over status, Varney requested that the BOS officially re-appoint him. Select Board members at the time were David Bickford, Terry Jarvis, and David Swenson.
4. In 2014, the BOS voted to "go in another direction", and they immediately hired an "Interim Fire Chief" without utilizing the hiring process as dictated by the warrant article. At that time, they changed the locks on the Fire Station, and all members were locked out of the building. Varney took civil action against the Town at that time, naming the Board of Selectmen in the action, to include David Swenson.

5. In 2015, Greg Anthes was elected to the BOS. In March of 2025, the BOS voted to reappoint Peter Varney as Fire Chief for a 3-year term. David Swenson was the dissenting vote.
6. The court made a ruling via summary judgement in March of 2015 that the town could hold over an appointed official and vote not to reappoint for another term, despite the length of the holdover status. This ruling came down after the BOS reappointed Varney to a new three-year term.
7. On August 17, 2015, Cecile Chase (former Town Moderator and Select Board Member), advised the BOS that she had taken over the name of the New Durham Fire Company during a dispute with the Fire Department. In taking over the name from the Secretary of State's Office, she advised the Select Board during public input, that she controlled the assets of the New Durham Fire Company, and that she was donating the assets, to include chairs and assets in their TD Bank account, to the town. Members of the Board at this time included David Swenson, David Bickford and Greg Anthes.
8. On or about August 18, 2015, Peter Varney contacted the NH Attorney General's Office about Chase trying to donate Fire Company assets to the town of New Durham. Where assets included a TD Bank account, the NH AG's Office recommended that the NH Banking Commission be immediately notified. A complaint was filed through the NH Banking Commission, and as a result, the NH Banking Commission, TD Bank and at least one private resident made requests for the video recording of the August 17, 2015, BOS meeting. Meeting video was provided as part of an investigation into the actions of the former select board member in the role of a bank officer as a result of her actions in a public BOS meeting, all documented in tape and in minutes of the meeting. David Swenson is directly aware of the situation and Varney's role in the complaint that was filed with the NH Banking Commission.
9. There would be a record of the meeting video requests around the date of August 17, 2015, by any vested parties. Also public info.
10. Varney's next scheduled reappointment was slated for 2018, and he was reappointed to another term, however after his reappointment, Chair David Swenson and the other Board members, Cecile Chase and Dorothy Viesel, voted to attach a Personnel Improvement Plan to his appointment. This occurred on or about in June of 2018 and are reflected in the meeting minutes.
11. Peter Varney's appointment was to have expired in 2021, however, the Select Board, still comprised of Swenson, Chase and Viesel, did not reappoint in March of 2021, therefore Varney was on holdover status.
12. During this time, the town was involved in a civil action regarding the property of H. W. on Merrymeeting Lake Road. H.W., who everyone referred to as "Harvey", owned the property between Cecile Chase's property and the property belonging to her mother. The issue was the condition of the property. Chase stepped down as a Select Board member in May of 2021 when the town pursued the issue through the court. Ron Ueyno filled Chase's vacant position on the BOS.
13. While Varney was still in holdover status, he was called into a meeting with David Swenson and Dorothy Veisel on Monday July 12, 2021, during the morning hours. The meeting took place in the Planning Board Secretary's office, which is connected to the Town Clerk's Office. Varney was called into the room, and the doors were shut.

14. Swenson and Veisel advised Varney that the previous building inspector had just resigned following directives from the BOS regarding the "Harvey" property. A court order had been issued which ordered that the property be cleaned up. The building inspector had been advised that if the property was not cleaned up that locks were to be changed, and the town would be seizing the property. Chase had a vested interest in the seizure of the property.
15. Swenson and Veisel asked Varney to step in as Interim Building Inspector. He agreed to do so on the condition that they immediately post the job and hire a permanent replacement, as he was already the Fire Chief.
16. Swenson and Veisel advised Varney that the court order had been issued that the property be cleaned up. He was told that the BOS wanted the clean up "expedited" and done so within the week, and if the property was not cleaned up within the week, that the "town wanted to seize the property". Varney advised that he felt that giving an individual a week was not an adequate amount of time to clean up the property. Varney requested a copy of the court order.
17. The subject had previously been deemed incompetent by the court, and he had been allowed by the town and town counsel to represent himself in the proceedings despite having been declared incompetent and requiring a guardian.
18. The "meeting" held by Swenson and Viesel with Varney was never posted, and there were no meeting minutes generated from the interaction. The meeting was an illegal meeting involving 2 BOS members.
19. Varney did not receive a copy of the court order as he had requested. He made a second request for a copy of the order and did not receive a copy.
20. Varney coordinated with several residents, and they organized a clean up of the property. By the end of August of 2021, the newly hired building inspector notified Varney that the property had been adequately cleaned up to his satisfaction. Therefore, the town was not able to seize the property that would have connected Chase's property and her mother's property, and which had been the intent of the BOS.
21. Varney remained in holdover status until after the 2022 election, when David Swenson was defeated by Rudy Rosiello.
22. On April 07, 2022, the BOS voted to reappoint Peter Varney as Fire Chief for a 3-year term, and he was sworn into office immediately following the vote. Swenson was very vocal about his disagreement with the reappointment. He was a resident at the time, but he had been appointed to the Budget Committee due to an open position and was later named Vice Chair.
23. Later in 2022, an allegation was made regarding a Personal Improvement Plan (PIP) that had been drafted after Varney's 2018 appointment, and that Select Board member Dorothy Veisel had removed Peter Varney's personnel file from the town hall and had taken it home to review it. There was an additional allegation that she had been accessing the personnel file cabinet to review personnel files using a key she took from the desk where it had been located in the administrative offices, when the process was that there needed to be a reason for access, and that the access needed to have a witness for any file review or placement of a document in a personnel file.
24. The allegation came after Peter Varney had requested a copy of his personnel file, and he discovered documents in the copies he received that had nothing to do with his employment but were connected to other departments and town business. He then

requested to view his actual personnel file to compare what was actually in his personnel file at the town hall. When he made the appointment to review the file, his personnel file was missing from the town hall, where personnel files were supposed to be kept under lock and key.

25. Veisel admitted to the BOS and Varney in a non-public session in 2022, that she had, in fact, removed Varney's personnel file in order to review it in its entirety at home. This admission occurred during a non-public session of the BOS. BOS members included Veisel, DeCoff and Rosiello. Swenson was not on the BOS and would not legally have any information from this meeting. The minutes were sealed.
26. The NH Labor Board was contacted, as was town counsel. A letter was drafted and sent to Veisel regarding the allegations that such a breach of employee confidentiality could be grounds for the removal of a select board member.
27. When the letter was made public in 2022, David Swenson made a very detailed post on one of the town's community Face Book pages refuting the allegations and admonishing the actions of the BOS in conferring with town counsel (which is considered a non-meeting by law, and therefore not required to be posted or to have minutes) with regard to Varney's personnel file. He alleged that Rosiello and DeCoff had violated the law based upon minimal information. The post completely sided with Veisel and condemned the allegations and the actions taken, despite the fact that he had not been on the BOS, nor had he been privy to what had occurred in non-public session when Veisel was confronted in Varney's presence. Additionally, Swenson has consistently conferred with counsel for years unilaterally, and without the knowledge of other BOS members or with any documentation as BOS Chair.
28. In 2023, David Swenson, while serving as BOS Chair, disclosed to a former select board member, who was at that time serving on the Ethics Committee, that the complaint against Veisel regarding the allegation she accessed Peter's file was never filed formally with the Department of Labor, and that Swenson had gone looking for the "missing" PIP document at the crux of the controversy, which was supposed to be attached to Varney's Oath of Office for 2018. The document had disappeared. Swenson disclosed to her in confidence that Swenson found it, but instead of publicly announcing the doc had been located somewhere buried in one of the oath of office books or in a file as Swenson claimed, Swenson told this resident/Ethics Committee member Swenson left it hidden. Swenson never re-stapled the document to the oath of office where it belonged or brought it to the attention of the other BOS members. It was Swenson's duty to disclose that Swenson had located the signed document that was purportedly missing, if in fact, Swenson had actually located the original signed document. I spent hours looking for that document in all of the oaths of office books at the town hall, and I was unable to locate it hidden anywhere. Veisel and the Ethics Committee member to whom Swenson had disclosed were both aware that I searched for the document and could not find it. Veisel told me that she did not know that no formal complaint had been filed or that she had never been investigated. She had claimed that she was waiting for an investigation to be completed. No one told her that a complaint had not been filed with the DOL. She thought she was still under investigation at that time of our conversations in the summer of 2023.
29. Veisel advised me at the time that Swenson had repeatedly taken actions unilaterally without the knowledge of and approval of the other BOS members, that he issued

directives to employees without the knowledge of the other BOS members, and that he withheld information from other BOS members about issues and counsel contacts. These conversations occurred in July of 2023.

30. David Swenson made it clear to numerous individuals that he was running for BOS again in 2023 to complete the unfinished business of getting rid of Peter Varney as Fire Chief. One of those individuals was Dorothy Veisel, who campaigned for Swenson while she was on the BOS, on social media and in person. Another, the Ethics Committee member mentioned in the above paragraph.
31. Peter Varney's term was to expire in March of 2025, and on the March 18, 2025 BOS meeting, David Swenson informed Varney that the town was going in the direction of a full time fire chief, that he could apply, but that he might not have the credentials the BOS was looking for. A full-time position had not been discussed or voted upon by the BOS, and no motion or vote was recorded regarding not appointing Varney as fire chief in any public portion of any BOS meeting.
32. In the public portion of the meeting, David Swenson passed out a fire chief job description and a job posting, which had been unseen by at least one BOS member. There were no meeting minutes or documentation that Swenson had conferred with or sought input from any other BOS member regarding the position, its status as full time, the job description, the pay or the job posting – all of which would have to be discussed in a legally posted public meeting. There had been no previous discussion in any BOS meetings or Budget Committee meetings about going from a part-time to a full-time fire chief position. This was a unilateral decision, prepared well in advance without including the entire BOS. The public was never aware this was going to be broached, because David Swenson omitted it from the meeting agenda, which he dictates. It was brought up at the end of the 03/18/25 meeting.
33. Present at the meeting was a potential candidate who had been approached by at least one BOS representative regarding the pending fire chief opening before the 3/18 meeting, and before Varney was told he was not being reappointed. The subject was at that meeting bc he had been approached, and he tried to speak to Mr. Swenson at that meeting to advise him he was not interested in the full-time position, but Swenson waved him off. The subject messaged me to advise that he had been approached prior to the meeting but that he was not told it would be full time. Peter Varney's confidentiality was breached by soliciting this candidate for the position prior to the March 18, 2025 decision.
34. On March 19, 2025, the Town Administrator advised Varney that the BOS had him in a holdover status and would like him to continue as fire chief at least until the end of May while the hiring process occurred. She then asked Varney if he would be willing to stay on and mentor the new fire chief to ensure a "smooth transition" if he was not chosen as the fire chief. Varney agreed to stay on as holdover but advised her that beyond that, they would "Cross that bridge" regarding new fire chief at a later time.
35. The current police chief was directed at the BOS request, to solicit fire chief candidates. He contacted individuals employed by the Alton Fire Department and disclosed to residents he had been asked to and followed through with trying to solicit candidates to apply for the Fire Chief position for the BOS. The police chief was directed to complete this task while on duty and serving in an official capacity as a police chief.
36. Swenson made a motion in the 03/18/25 meeting and 2 subsequent BOS meetings, which were in direct violation of the 2008 warrant article #23, with regard to the oral board

process. He has continued to try to circumvent the warrant article by working unilaterally with MRI to undermine the oral board committee as voted by the residents of the Town of New Durham. The latest MRI contract was misrepresented to the public by Swenson, and paragraph 6 of the contract was never read to the public. It violates the warrant article. The public was never provided with the MRI contract as part of the public packet or in the meeting, despite the fact that the public should have been provided with the document. The MRI contract was not provided to the other BOS members in their BOS packet for the meeting of May 06, 2025.

37. During the April 17, 2025 BOS meeting, David Swenson breached attorney client privilege when he represented that counsel had weighed in on hiring MRI to be inserted into the hiring process. Not only did Swenson breach confidentiality, hiring MRI had not even been disclosed to at least one BOS member prior to the April 17 meeting and had not been run by town counsel. MRI had not been considered even when Swenson decided to make the fire chief position full time, tell Varney he was not being reappointed and had drafted a job description and job posting for the position unilaterally.
38. On April 17, 2025, Swenson breached Varney's confidentiality again in the public meeting, which he was attending remotely and which is recorded. Swenson was asked by a resident what his rationale was, and Swenson stated that the resident was not aware of all the facts that could not be discussed in public, and that Varney expressed his intention to retire. The comments were made to allude to a personnel issue that did not exist, and to purport that Varney had told the BOS he intended to retire, when he had not informed the BOS or Swenson that he was considering retiring.
39. David Swenson has refused to take into account the petition submitted by 17 out of 18 fire department personnel that they requested that Peter Varney be reappointed, and that the BOS follow the 2008 warrant article #23. The only personnel who did not sign the petition was former BOS member Marc DeCoff, who is disgruntled because he was not promoted to medical Lieutenant, even though he has not attained medical certification (his certifications are public record). He made his opinion public to fire department members, and therefore this information is in the public arena.
40. On May 06, 2025, a private resident met with David Swenson to inquire as to why Swenson was refusing to reappoint Peter Varney, going against the wishes of the fire department and community, and potentially putting the safety of the community in jeopardy. David Swenson violated Peter Varney's confidentiality as an employee, by making numerous statements to this resident in justification of his decision not to reappoint Varney as fire chief. Not only did Swenson violate Varney's employee confidentiality, but Swenson made numerous false and defamatory statements, to include:
 - a. That Varney had been asked to provide a plan for medical coverage, and that Varney had not done so.
 - b. That there were only a few of the rostered firefighters who were actually active in the department.
 - c. That there was a large faction of the fire department who were not happy with Varney's leadership and did not agree with him being fire chief.
 - d. That there were organizational deficits in the fire department.
 - e. That Varney had not adequately covered the town with regard to medical calls.
 - f. That Varney was not medically certified, and that he wanted a chief to be medically certified.

- g. Swenson had met with Varney in February for supervision regarding his job performance.
 - h. Varney told Swenson that he wanted to retire.
 - i. That only two or three members had any certifications.
 - j. That Swenson did not believe that the town needed a ladder truck, which had nothing to do with Varney as Chief, since the BOS, Budget Committee and the town residents all voted for the ladder truck, which has been in the town's possession for many years and is not germane to the issue of reappointment. Swenson falsely attributed the ladder truck to Varney in his position as fire chief.
41. All statements above were false and can be refuted factually with data. Swenson has never assessed the organizational structure of the fire department, has not done any analysis of the FD personnel, time sheets, call volume, incident command and hierarchy, and has not met with any FD personnel. He did not meet with Varney in February, or any other time in the last year regarding job performance of FD issues.
42. Swenson and the BOS were provided with extensive data supporting that the structure, response and credentials were all appropriate, that the law will be changing to require only one medically certified personnel to run the ambulance, and that a fire chief should not hold medical credentials for two significant reasons. This data was provided in writing in public meetings. His comments to the resident were not only a breach of employee confidentiality, and information that can only be discussed in a non-public, legally posted meeting between BOS members, the information was blatantly false.
43. Swenson made these statements prior to the May 6, 2025 BOS meeting where he sought to hire MRI and misrepresented to the public the role MRI would take and against input from the residents in attendance.

The above facts support the 6 issues outlined in this complaint.

As a result of the above facts, David Swenson should be recused from any fire department matters, to include the hiring process, and the hiring process should be rescinded. Additionally, the fact pattern provides compelling evidence for removal from office by the BOS or the court.

Respectfully submitted,

Kristyn Bernier

Kristyn Bernier, resident