

**TOWN OF NORTHFIELD
BOARD OF SELECTMEN
Minutes of November 10, 2015**

- I. **ROLL CALL.** Chair John Quinn III, Selectmen Lynn Doney, Matthew Gadbois, Kenneth W. Goslant, and K. David Maxwell. Also present were Town Manager Jeffrey Schulz, Acting Clerk Kenneth McCann, Police Chief James Dziobek, Robert Halpert (Zalinger, Cameron & Lambek PC), Robert Appel (Kohn Rath Danon & Appel, LLP), Gordon Bock, Christine Barnes, Gordon Perkinson, Gail Lund-Rowell, Phil Rowell, Charles Morse, John Mott, Eva Ciampaglia, Paul Ciampaglia, Steve Williams, Lonny Wade, Elizabeth Dziobek, Sara Philbrick, Michael Philbrick (Northfield Police Department), Emily Withrow, Nathan Messier (Northfield Police Department), Kurt Snyder (Capitol Police Department), Gyla Dziobek, Michael R. Gero (Northfield Police Department), Paulette Gagne, Christopher Hoar (Northfield Police Department), Christopher Quesnel (Northfield Police Department), Daniel Withrow (Northfield Police Department), Cindy Spaulding, Lindsay Cronin (Northfield Police Department), Linda Shedd (Northfield Police Department), Logan Potkowski, Steven Tiersch, Brandon Gallant, Kelly Driscoll Smith, Chris Bradley, Rosa Benoir, Scott Benoir, Jen Siegal, Laura Ranker, Brian Hoar (Northfield Police Department), Chris Dziobek, James Dziobek III, Rowley Brucken, Mary Ann Grebe, Skip Davidson, and Kathleen Lott (*Northfield News*).

Chair Quinn called the meeting to order at 6:00 p.m.

- II. **PLEDGE OF ALLEGIANCE.** The Board members and the public were asked to rise and recite the Pledge of Allegiance.

III. **PRE-TERMINATION HEARING**

- a. **Police Chief James Dziobek.** Robert Halpert is the attorney acting on behalf of the Town of Northfield for this hearing, which was rescheduled from last week (11/03/15) and is intended to help determine whether or not Police Chief James Dziobek's employment should be terminated. This hearing will focus on issues raised in a letter sent from Manager Schulz to Chief Dziobek on October 13, 2015. These issues include Chief Dziobek's failure to maintain a regular working schedule (as requested by Manager Schulz), his inability to manage his officers' comp time, and his failure to follow the Town's purchasing policy when spending state and federal grant moneys. The letter also states that the lack of a regular working schedule (8:00 a.m. to 4:00 p.m.) meant that on the day that an Amtrak train derailed in Northfield (10/05/15), Chief Dziobek did not arrive in town until 12:30 p.m., which is two (2) hours after the accident occurred. In addition, although he stated on his timesheet for that day that he worked ten (10) hours, when in fact Chief Dziobek left Northfield at 5:00 p.m. This means that he only worked for four and one-half (4½) hours that day. In addition, even though Chief Dziobek did not come at all to Northfield the following day (10/06/15), he claimed nine (9) hours of work for that day. In addition, due to his non-presence in Northfield that day, Chief Dziobek failed to attend morning and afternoon briefings conducted by state, federal, and Amtrak representatives regarding the previous day's accident. Chief Dziobek's attorney (Robert Appel) has requested that all witnesses providing testimony at this hearing be sworn in. There is no objection to this from either Manager Schulz or the Select Board members. Evidence will first be presented to the Select Board by Manager Schulz. Chief Dziobek and Mr. Appel will then have the opportunity to challenge this evidence, provide their own documentation, and call their own witnesses.

Manager Schulz conducted his presentation to the Select Board by providing copies of various forms of documentation that were listed as Exhibits 1 through 11. The first was a copy of an email sent by Manager Schulz to Chief Dziobek in February 2015 that raised concerns regarding the excessive amounts of comp time (in excess of 60 hours) that was being accumulated by some members of the Northfield Police Department (NPD). This is an apparent violation of the current NPD union contract. In his response, Chief Dziobek indicated that he was aware of this problem. Manager Schulz believes that this indicates Chief Dziobek's lack of oversight over his employees. The accumulation of excessive employee comp time could be a potential financial liability to the Town.

Manager Schulz stated that during a March 30, 2015 meeting with Chief Dziobek, Manager Schulz emphasized the need for Chief Dziobek to work a regular work schedule. Manager Schulz understands that this could be difficult sometimes with salaried employees but also felt that the situation regarding Chief Dziobek's work schedule had gotten out of hand. Manager Schulz then presented Exhibit 2, which was a May 20, 2015 letter from him to Chief Dziobek that shared his concerns regarding comp time and NPD overtime expenses. He also reiterated the regular work schedule issue in the letter.

At this time, Mr. Appel asked that since Manager Schulz appears to be providing testimony regarding these interactions between himself and Chief Dziobek, he should be sworn in. Chair Quinn asked if this was a matter for the Select Board to decide. Mr. Appel said that it was. There were no objections from the Select Board members so Manager Schulz was sworn in by Mr. Halpert. In addition, Mr. Appel said that he would defer any questions regarding the evidence provided by Manager Schulz until he had finished his presentation.

Manager Schulz then presented Exhibit 3, which was another letter from him to Chief Dziobek on the same issues raised previously. Exhibit 4 was two (2) separate documents. The first was a June 4, 2015 email from Manager Schulz to Chief Dziobek. The second was a June 9, 2015 letter to Manager Schulz from the Vermont Department of Public Safety that raised concerns that proper bidding procedures were not followed when grant funds provided to the NPD were spent. The main concern was that a single contractor was being used for all the purchases. Manager Schulz stated that after receiving this letter, he feared that future NPD grant opportunities might be lost if proper procedures were not followed.

Exhibit 5 was the minutes from the regular Select Board meeting held on June 9, 2015. Chief Dziobek provided the Select Board with a Department Head Report at that meeting and he was asked about his regular work schedule. He told the Select Board members that he would keep a regular 8:00 a.m. to 4:00 p.m. workday.

Exhibit 6 was in regard to a meeting with Manager Schulz and Chief Dziobek on June 10, 2015 during which they spoke about issues raised at the previous night's Select Board meeting. At this time Manager Schulz emphasized the need for Chief Dziobek to keep to a regular work schedule as he had promised at the meeting. He also stated that improved department oversight was needed. Chief Dziobek asked at this meeting whether or not his position was in jeopardy. After this meeting Manager Schulz observed that Chief Dziobek was not in Northfield until the afternoon on workdays. This indicated to Manager Schulz a lack of compliance on Chief Dziobek's part. In addition, some residents expressed their concerns that Chief Dziobek was not in Northfield for much of the day. Callers to the NPD dispatcher repeatedly were told that Chief Dziobek was not available and the dispatcher did not know when he would be.

Exhibit 7 related to the Amtrak derailment and the fact that Chief Dziobek was not in Northfield until two (2) hours after it happened. His timesheet for that work period stated that Chief Dziobek worked ten (10) hours that day but separate evidence shows that actually he was in Northfield for only four and one-half (4½) hours that day. Exhibits 8 and 9 were related to the day after the Amtrak accident when Chief Dziobek attended an out-of-town conference so he was not present at any of the meetings dealing with the derailment.

Exhibit 10 was the aforementioned October 13, 2015 letter from Manager Schulz that informed Chief Dziobek of the Town's intention to begin the process to terminate his employment. Exhibit 11 was a November 5, 2015 email from Chief Dziobek to Manager Schulz in which Chief Dziobek presented his regular work schedule to him. The email included the proviso that the schedule was subject to change without notice, which troubled Manager Schulz.

Manager Schulz concluded his presentation of written evidence by noting that the issues contained in the October 13, 2015 letter have been discussed in various forums and by various communications since February 2015. He feels that this shows that Chief Dziobek does not exercise proper oversight over his department. Manager Schulz asked Mr. Halpert if he should produce his witnesses at this point. Mr. Halpert felt that it would be better to provide Mr. Appel (Chief Dziobek's attorney) the opportunity to ask questions about the evidence presented so far.

Mr. Appel asked Manager Schulz if he was aware that the Northfield Police Department (NPD) runs three (3) patrol shifts of twelve (12) hours each. Manager Schulz said that he was aware that the NPD has day, transitional, and night shifts of this duration. Mr. Appel stated that according to the Select Board minutes of June 9, 2015, the Select Board seemed insistent that Chief Dziobek work a regular 8:00 a.m. to 4:00 p.m. work day. Manager Schulz said that it was felt that this work schedule would make it easier for Chief Dziobek to interact with members of the public, fellow Northfield municipal employees, etc. on a regular basis. Mr. Appel noted that according to the federal Fair Labor Standards Act (FLSA), as a salaried employee Chief Dziobek is classified as an "exempt employee" and not required to work a set work schedule. He added that Chief Dziobek will testify later tonight that he wanted to work outside of the 8:00 a.m. to 4:00 p.m. schedule in order to better interact with the varying NPD work shifts (and for other reasons). Manager Schulz stated that although he is not an expert on federal labor laws, he does understand the difference between a salaried and hourly employee. Mr. Halpert asked if it was Mr. Appel's contention that Manager Schulz did not have the authority to require Chief Dziobek to work a set schedule. Mr. Appel said that it was. Mr. Appel asked Manager Schulz if he was aware that Chief Dziobek is not eligible for overtime pay. Manager Schulz said that he was aware of this.

Mr. Appel then asked Manager Schulz if he had working knowledge of Title 24 of the Vermont Statutes and in particular the section (Chapter 55) that specifies the amount of control that a Police Chief has over his/her department. Manager Schulz said that he did. Mr. Appel noted that 12 VSA 1931(b) specifically states that the "direction and control of the entire police force, except as otherwise provided, shall be vested in the chief of police." Manager Schulz was aware of this but he also believes that the Town Manager has oversight over the Police Chief.

Mr. Appel, making reference to other sections of this chapter, noted that in his initial correspondence to Chief Dziobek dealing with the matters at issue tonight, Manager Schulz never once informed Chief Dziobek of his right to counsel. Mr. Appel noted that the allegations made against Chief Dziobek tonight, notably the suggestion that he submitted fraudulent timesheets, are very serious. He then asked Manager Schulz if he was familiar with federal labor laws regarding comp time for public safety workers. Manager Schulz said that he focused more upon the provisions in the Town's current contract with the NPD's union. Mr. Appel noted that this contract was drafted and agreed upon before Manager Schulz and Chief Dziobek held their current positions. Manager Schulz repeated his earlier statement that he felt that NPD comp time was accumulating to such an extent to create a financial liability to the Town. In fact, some NPD officers were exceeding fifty (50) hours of comp time. Mr. Appel asked if Chief Dziobek stated in one communication that he was addressing this issue. Manager Schulz said that he did but the amount of comp time actually increased afterwards (as noted in his May 20, 2015 letter to Chief Dziobek).

Mr. Appel then turned to Exhibit 4, which was the letter from the Department of Public Safety that included concerns about how grant money awarded to NPD was being handled. He asked if the Town was ever sanctioned for wrong-doing. Manager Schulz said that it was not. Mr. Appel asked if the audit itself focused on the Town's Accounting Office (and not the NPD). Manager Schulz stated that the audit involved the Accounting Department and the Town in general. Mr. Appel asked if the letter was addressed to the Town's Financial Director (Laurie Baroffio) and not Chief Dziobek. Manager Schulz confirmed that it was. However, he did contact Chief Dziobek to express his concerns over the letter's contents. Mr. Appel asked if Chief Dziobek was ever informed that concerns over his grant management might lead to his termination. Manager Schulz said he was not. Mr. Appel asked if Chief Dziobek's job performance was ever subject to a written evaluation. Manager Schulz said that there never was a written evaluation.

Regarding Exhibit 5, the Select Board minutes of June 9, 2015, Mr. Appel noted that the Select Board discussed establishing a policy regarding unauthorized media communications from municipal employees. Manager Schulz said that he had contacted the Vermont League of Cities & Towns (VLCT) and was informed that the Town was entitled to impose some limits.

Mr. Appel then turned to the day of the Amtrak accident. Manager Schulz stated that he had evidence that Chief Dziobek was in Northfield for only four and one-half (4½) hours that day. However, Mr. Appel will be presenting evidence later in the hearing to show that Chief Dziobek was in town much later than 5:00 p.m. In addition, Mr. Appel noted that Manager Schulz had expressed concern that Chief Dziobek was at a conference the day after the accident and not in Northfield. He asked whether it is true that local law enforcement representatives would take a back seat to state, federal, and other officials in such matters involving inter-state transportation. Manager Schulz still felt that an event of this magnitude required the presence of the local police chief.

Mr. Appel then submitted Exhibit A, which was the certificate that the Vermont Department of Mental Health provided to Chief Dziobek for his participation in the 2015 Adult Mental Health Conference on Promoting Health, Wellness & Recovery on October 6, 2015. Mr. Appel asked Manager Schulz if he was aware that police officers often have to interact with individuals with mental health issues. Manager Schulz was aware of this.

Mr. Halpert asked if any of the Select Board members had any questions regarding the evidence provided so far. Chair Quinn asked if the letter from the Department of Public Safety regarding grant management indicated that Chief Dziobek did not follow the Town's purchasing policy when buying equipment. Manager Schulz said that it did. Chair Quinn then asked Manager Schulz about the many interactions he has had with Chief Dziobek regarding a set work schedule. Manager Schulz said that he spoke to Chief Dziobek frequently about the need for a regular schedule. Chief Dziobek said he felt that the 8:00 a.m. to 4:00 p.m. time period was the optimal work time for him with occasional variations. He felt that this would allow him to better interact with Manager Schulz, other municipal staff, the public, etc. Chair Quinn asked if there was an understanding between the two of them that Manager Schulz had the authority to set Chief Dziobek's schedule. Manager Schulz said there was.

Selectman Goslant asked Manager Schulz if he had been made aware by the previous Town Manager (Robert Lewis) of existing problems with the Northfield Police Department. Manager Schulz said that he did discuss his concerns about Chief Dziobek's work schedule with Mr. Lewis. Chair Quinn asked for some clarification; when NPD officers go on duty, do they radio in? Manager Schulz said that they do call in at the beginning and ends of their shifts. It is his understanding, however, that Chief Dziobek does not.

Chair Quinn asked if any other municipal employees expressed any options regarding Chief Dziobek's work schedule. Mr. Appel objected to this question as it was asking for hearsay. Chair Quinn then asked about comp time. There have been questions raised regarding the amount of hours that could be accumulated; isn't this specified in the current NPD union contract? Manager Schulz said that it was and this amount had been negotiated between the NPD union representatives and Town management. There were no additional questions from the Select Board members.

Mr. Halpert asked if Manager Schulz wanted to call any witnesses at this time. Manager Schulz asked that part-time NPD officer Linda Shedd be called and sworn in. Manager Schulz asked Officer Shedd how long she has worked for the Northfield Police Department. Officer Shedd said that she started in June 2014 but she has known Chief Dziobek for over eight (8) years as they previously worked together at the Hardwick Police Department. Officer Shedd primarily works the NPD swing shift from 2:00 p.m. to 2:00 a.m. Manager Schulz asked if Chief Dziobek was consistently in his office during night hours. Officer Shedd said that he was not. Manager Schulz asked if Officer Shedd felt that Chief Dziobek was available during the night shift. Officer Shedd said that Chief Dziobek always answered the phone when contacted but she did not see him on a regular basis. Manager Schulz asked how was Officer Shedd's working relationship with Chief Dziobek in that other municipality. Mr. Appel objected to that question as it has been established that tonight's hearing will focus only on the issues raised in the October 13, 2015 letter. Manager Schulz asked Officer Shedd if she felt that the amount of oversight that Chief Dziobek provided to NPD officers was sufficient. Officer Shedd stated that she could not definitively answer that question since she was only a part-time officer. She was able to contact Chief Dziobek when needed but their different work schedules meant that they did not interact on a regular basis. Mr. Appel then asked Officer Shedd that when working the swing shift was she usually out of the station on patrol. Officer Shedd confirmed she was. Mr. Appel asked Officer Shedd if she was asked to be present tonight. Officer Shedd said that she was here because NPD Officer Christopher Hoar asked that as many NPD officers as possible be here tonight to show their support for Chief Dziobek. Officer Shedd added that she felt uncomfortable proving evidence in this hearing. Chair Quinn asked Officer Shedd how many times she had reached out to Chief Dziobek during her shifts. She said it was once or twice. She would usually contact the duty officer first.

Since Manager Schulz had concluded providing evidence, Mr. Appel asked that Chief Dziobek be called to provide his testimony (after being sworn in). Chief Dziobek stated that he has served as Northfield's Police Chief since February 2013. He first came to work in Northfield as a NPD patrolman in 2008 and worked briefly as Police Sergeant before becoming first the interim and then the official Police Chief. In addition, Chief Dziobek has been a certified law enforcement officer since 1983. Mr. Appel asked Chief Dziobek if he had ever been written up for malfeasance in all that time. Chief Dziobek believes that he may have received a letter of reprimand or two in all that time but he is not certain. Mr. Appel then asked Chief Dziobek if he had any indication that his job was in jeopardy before receiving the October 13, 2015 letter. Had he been provided with any written or oral warnings beforehand? Chief Dziobek said that he had not. He had discussed various issues with Manager Schulz on many occasions but there never had been any suggestion that his termination was being considered. There had been no letters of reprimand or directives issued regarding these matters. Chief Dziobek had made it clear to Manager Schulz that he never had a set schedule but rather preferred a floating schedule in order to better interact with his officers. He had no idea that his job was being threatened until he received that letter and his immediate response was a combination of shock and anger.

Mr. Appel then provided Chief Dziobek with a copy of Appendix A ("Disciplinary Guidelines") from the Town of Northfield's "Personnel Policies and Procedures." He asked Chief Dziobek if there was any section that seemed especially applicable to the matter at hand. Chief Dziobek did not see any that applied directly. Mr. Appel noted that for most of the offenses listed, warning notices were required prior to discharge. Chief Dziobek said that depended on the severity of the offense but that was the case for most of them.

Regarding the day of the Amtrak accident, Mr. Appel noted that the October 13, 2015 letter stated that Chief Dziobek was not on duty until 12:30 p.m. He asked Chief Dziobek if he was on duty before then. Chief Dziobek confirmed that he was. Due to his daughter being involved in a minor automobile accident, Chief Dziobek was still at home when NPD Officer Chris Quesnel informed him about the train derailment around 10:30 a.m. He was told that an Amtrak worker had been seriously injured and been airlifted. The less seriously injured were being transported to the local hospital and the remaining passengers were being bussed to Norwich University.

Mr. Appel asked when Chief Dziobek reported to Northfield. Chief Dziobek left his residence at 11:00 a.m. and on the way he was in contact with the U.S. Border Patrol to ask for surveillance of the area and for control of the air traffic over the accident site. A helicopter subsequently was dispatched to the scene. Mr. Appel asked which agencies responded to the trail derailment. Chief Dziobek said that the local response was mainly fire and rescue. In such instances, the local law enforcement has a limited role as state and federal agencies take precedence. Local law enforcement mainly would assist with jurisdictional issues should there be any fatalities, which (fortunately) was not the case here. Not long after federal, state, and Amtrak representatives began their initial investigation, the Vermont Agency of Public Safety established a command center in Waterbury. Mr. Appel asked which NPD officer arrived first at the accident scene. Chief Dziobek said that Officer Dan Withrow was the on-duty officer and he arrived at 10:31 a.m., which was only minutes after notification. Mr. Appel asked if Chief Dziobek was satisfied with this response. Chief Dziobek said that he was. By the time Chief Dziobek arrived in Northfield, with the other agencies on hand, the site appeared to be a “done deal” except for some concerns about the amount of fuel that had spilled, etc. Mr. Appel asked whether there would have been any added benefit had Chief Dziobek arrived on the scene earlier. Chief Dziobek did not think so, saying that he just would have been another person there. In these instances, it usually is best to stay out of the way of the other agencies.

Mr. Appel noted that in the October 13, 2015 letter, it is stated by Manager Schulz that Chief Dziobek put ten (10) hours of work on his timecard the day of the Amtrak accident even though there is evidence that he left Northfield after four and one-half (4½) hours. Chief Dziobek said that he does not know where Manager Schulz got this information as he did not leave Northfield until after 11:00 p.m. that night. According to Chief Dziobek, he logged off his computer at 10:34 p.m. He then stayed at the Police Station for another hour or so speaking with NPD Sergeant Brain Hoar about how much worse the accident could have been, etc. The next day, Chief Dziobek was at the aforementioned mental health conference while his officers did what needed to be done regarding the accident aftermath, i.e. attending status meetings, etc. Chief Dziobek said that when there was a mid-day break in the conference proceedings he did check in to see if all was going well. Mr. Appel asked how long Chief Dziobek was at the conference. Chief Dziobek said that he left his residence around 7:30 a.m. and did not return home until after 6:00 p.m.

Mr. Appel asked how Manager Schulz got the impression that Chief Dziobek only spent four and one-half (4½) hours in Northfield the day of the accident. Chief Dziobek said that he had no idea. He cannot see how this was determined without a proper investigation and that Manager Schulz never asked him directly about this. This kind of allegation can seriously damage a police officer's reputation and career. A police officer accused of submitting a fraudulent timecard (or other false documentation) sometimes can get no cooperation from state's attorneys or other law enforcement agencies once his/her credibility has been called into question.

Mr. Appel asked Chief Dziobek why it was so important for him to attend the mental health conference the day after the Amtrak accident. Chief Dziobek felt that his officers would be able to handle whatever limited role the NPD had by that point. The municipality's main concerns by then included damage to property, environmental threats, etc. The NPD would have no major role until it was determined how the damaged engine was to be transported away from the site. Chief Dziobek believed that the subject of the conference was so important that he should attend. Among the topics covered include suicide prevention, coordinating non-profit organizations to assist police departments with mental health issues, etc. Mr. Appel noted that the October 13, 2015 letter stated that even though Chief Dziobek was not in Northfield that day (10/06/15), he did claim nine (9) hours of work on his timecard. Chief Dziobek said that the workshops he attended took up most of the day. The conference registration began at 8:30 a.m. and the sessions lasted until 4:30 p.m. Mr. Appel noted that this did not include Chief Dziobek's travel time.

Mr. Appel asked Chief Dziobek if he directed Officer Shedd to be present tonight. He said he did not. Regarding the comp issue, Mr. Appel asked if this is covered in the NPD union contract. Chief Dziobek said it was but there remains some ambiguity regarding when comp hours must be used, etc. There also is vacation comp time that NPD officers were required to use by July 1 of each year. However, this often resulted in staffing problems that meant that the officers could not take this time without increasing NDP part-time and/or overtime costs significantly. Mr. Appel asked if the NPD ever ran a deficit under Chief Dziobek's tenure. Chief Dziobek said that it did not. He added that he was not Police Chief when the current union contract was signed but he has had to deal with its consequences.

Mr. Appel then handed a document to Chief Dziobek. Chief Dziobek said that it was an operational agreement that he had provided to Manager Schulz regarding interactions between NPD officers and members of the Select Board. Mr. Appel asked why Chief Dziobek drafted this document. Chief Dziobek said he believed that the Select Board members directed a lot of hostility at him and his officers at the June 9, 2015 meeting. There had been comments that NPD officers had made postings on social media that the Select Board members felt made them look bad. Chief Dziobek noted that not long before that meeting, he had put a message on the Front Porch Forum about dementia and the possibility of affected individuals wandering off. He had mentioned in his message that tracking dogs were often used to find these people and, seeking some feedback, he asked for suggestions about which breed of dogs might be more successful in this. Chief Dziobek gained the impression that some members of the Select Board took his comments in a bad light, which is not what he had intended. In addition, around this time the part-time NPD detective position was being eliminated. Chief Dziobek said that he did not advocate for an increased NPD budget and neither did his officers.

Mr. Appel stated that when Manager Schulz presented Exhibit 6, which related to a June 10, 2015 meeting he had with Chief Dziobek, he said that Chief Dziobek asked if the lack of a set schedule might lead to his termination. Chief Dziobek said he does not believe he raised the topic of termination at that time. Mr. Appel noted that at the September 22, 2015 Select Board meeting Chair Quinn suggested that perhaps Chief Dziobek, as a salaried employee, could work on some of the more difficult work shifts to fill. Chief Dziobek is aware of that suggestion but he felt that patrol work is not the responsibility of a Police Chief. His/her major responsibility is management and oversight. Chief Dziobek often will work patrol shifts with his officers but not on a regular basis.

Mr. Appel noted in the October 13, 2015 letter Manager Schulz accused Chief Dziobek of not following the Town's purchasing policy and thereby putting under threat future state grant awards. Chief Dziobek said that he was not directly involved in the purchase of items with grant monies as this was done by another NPD officer in conjuncture with Manager Schulz. Chief Dziobek later contacted the person who conducted the grant audit and was told that the Town would not be sanctioned for any misdoing. There was a sole vendor used when some items were purchased but that was at the agreed-upon state government price. Chief Dziobek added that this agreement preceded his tenure as Police Chief.

In the Select Board minutes, Mr. Appel stated that Selectman Goslant spoke of his long-standing frustration with the NPD and that the timeframe that he mentioned preceded Chief Dziobek's tenure. Chief Dziobek believes that this may be that individual's perception. Mr. Appel asked Chief Dziobek if he believed that he had been able to oversee his department without interference by Select Board members (as specified in state law). Chief Dziobek said that he did not believe that some Select Board members have a full understanding of the amount of oversight that a Police Chief has over his department. He believes that there has been some Select Board micromanagement of the NPD over the past few years. Mr. Appel then asked Chief Dziobek if he would like to stay on as Police Chief in Northfield. Chief Dziobek said that he did. He believes that under his tenure, the NPD has become a department comprised of capable officers and Chief Dziobek also believes that he has a vision for local law enforcement that would be a benefit to the Northfield community.

Mr. Halpert then asked Manager Schulz if he or the Select Board members had any questions for Chief Dziobek. Manager Schulz inquired if Chief Dziobek does take patrol shifts on occasion. Chief Dziobek said that he has informed the scheduling officer that he will fill shifts on occasion if there are special problems filling them due to paternity leave, academy training, etc. Manager Schulz noted that he and Chief Dziobek spoke of the need for a regular work schedule on several occasions. At the June 9, 2015 Select Board meeting Chief Dziobek did promise to work an 8:00 a.m. to 4:00 p.m. work shift but failed to keep this commitment in following months. Chief Dziobek said that over time it developed that it would be more useful for him to work the swing shift in order to better interact with the day and night shifts, to better engage in community activities (i.e., National Night Out), etc. His working the 8:00 a.m. to 4:00 p.m. shift was not working well. Chair Quinn asked why Chief Dziobek did not tell his boss (Manager Schulz) this; it seemed to him that better communication might have avoided a lot of future problems. Chief Dziobek believes that there was poor communication in both directions. For example, there was no notice from Manager Schulz that concerns about his work schedule had gotten so serious that his termination was being considered. Selectman Gadbois asked why Chief Dziobek did not ensure that his views were being communicated properly. Chief Dziobek said he was not under the impression that having a set schedule was a mandate. He then admitted that he should have made the effort to let the Select Board know that the 8:00 a.m. to 4:00 p.m. schedule was not working out in practice.

Selectman Gadbois noted that Chief Dziobek stated that the NPD operated in the black during his tenure. Would this have happened had the part-time detective position not been eliminated? Chief Dziobek does not have the records in front of him to give a definitive answer but he believes that the NPD would not have run a deficit even if the position had not been eliminated. Chair Quinn asked Chief Dziobek if he would admit that the Town's purchasing policy was not followed when grant monies were used to purchase new radio equipment. Chief Dziobek said that he couldn't answer that question without having the policy in hand to review. Chair Quinn asked if Chief Dziobek advised his subordinate officers to follow the policy. Chief Dziobek said he did. For example, when bullet-proof vests were recently purchased, he made sure that quotes were sought from three (3) different vendors because the projected purchase price fell into this category.

Chair Quinn noted that Officer Shedd's testimony indicates that she did not see Chief Dziobek on a regular basis. How can this be if they are both working the swing shift at the same time? Chief Dziobek does not feel that one part-time officer should be expected to be an expert regarding his work schedule. Chair Quinn asked Chief Dziobek if he was aware that Grand Juror Richard Wobby was now looking into a number of NPD issues, including when and why Chief Dziobek is not in Northfield, etc. Chief Dziobek was not aware of this.

Chair Quinn asked Chief Dziobek if he submitted a falsified timecard for the day of the Amtrak accident. Chief Dziobek said that he did not. The timecard he submitted for the two (2) weeks that included the day of the accident accurately showed the number of hours (84) worked during that period. Chair Quinn asked if Chief Dziobek logged into the Spillman system like the other NPD officers. Chief Dziobek said that he did not do this every time he came to work because the main purpose for logging in is to inform the dispatch clerks who was available for patrol duty.

Chair Quinn asked how long NPD officers were at the scene of the Amtrak derailment the the day of the accident. Chief Dziobek said that some officers assisted the responding Amtrak representatives with site security and monitoring the traffic along Bull Run. This was considered a "special duty" and the personnel costs would be reimbursed by Amtrak. Chair Quinn asked how this "special duty" would affect the officers' work hours and any overtime generated. Chief Dziobek said that Amtrak would pay a flat hourly rate of \$75 for an officer with a vehicle or \$50 for just an officer. Whether overtime was generated would not come out of the NPD budget. Chair Quinn asked Chief Dziobek what was his position when the current NPD union contract was negotiated. Chief Dziobek said that he was working as the interim Police Chief at that time but he was never a part of the negotiation process.

Selectman Goslant asked if Chief Dziobek was present at Norwich University when Governor Peter Shumlin held his press conference on the day of the Amtrak accident. Chief Dziobek said he was not; he was then at the crash site with Lieutenant Governor Phil Scott.

Mr. Appel asked Chief Dziobek if Grand Juror Wobby had ever contacted him regarding allegations about the NPD. Chief Dziobek said he had not. Mr. Appel asked if any law enforcement agency was conducting an investigation of the NPD. Chief Dziobek was not aware of any investigation. Mr. Appel asked why Chief Dziobek submitted a timesheet even though he was a salaried employee. Chief Dziobek said that he was told he had to submit one in order to document the number of hours that he worked.

Selectman Goslant asked Chief Dziobek to confirm that he believed that the NPD would not have run a deficit had the part-time detective position not been cut. Chief Dziobek confirmed that this was his understanding based upon the NPD financial statements provided to him by the Accounting Office. Selectman Goslant feels that Chief Dziobek has come before the Select Board many times to make commitments that were not kept. He felt that Chief Dziobek will say one thing and do another. Chief Dziobek thinks that this is a statement and not a question. Selectman Goslant believes that he has made his point.

Mr. Appel asked that NPD Officer Christopher Hoar be sworn in as a witness. He then asked Officer Hoar to read the section in the NPD union contract relating to "Open Shifts." Did it not say that bargaining unit members had priority when shifts are filled? Officer Hoar said that it did. Mr. Appel asked if Officer Hoar would have a problem as a union representative if Chief Dziobek began working patrol shifts on a regular basis. Officer Hoar said that he would. Chair Quinn asked if Officer Hoar stated that Chief Dziobek was not in Northfield during the day of the Amtrak accident. Officer Hoar said that he told someone that Chief Dziobek was in Northfield but he did not know exactly where. Officer Hoar said that he was not scheduled to work that day but reported anyway.

Mr. Appel then asked that NPD Sergeant Brian Hoar (Christopher's brother) be sworn in. He asked Sergeant Hoar if he was aware that Chief Dziobek was present at the Police Station past 10:00 p.m. on the day of the accident. Sergeant Hoar confirmed that there had been a briefing that had concluded by 10:00 p.m. that was followed by general conversation.

Mr. Appel asked if Sergeant Hoar could confirm that Chief Dziobek was in Northfield for more than four and one-half (4½) hours that day. Sergeant Hoar said that he could. He first saw him around 1:00 p.m. and last saw him at the Police Station after 10:00 p.m. Mr. Appel asked Sergeant Hoar if he had directed Officer Shedd to be present at this hearing. Sergeant Hoar said that he informed her that a number of NPD officers planned to be present to show their support for Chief Dziobek. Chair Quinn asked Sergeant Hoar if he worked the day shift. Sergeant Hoar said that he was working the 6:00 a.m. to 6:00 p.m. shift the day of the Amtrak accident. He also works the swing and night shifts on occasion. Chair Quinn asked if he saw Chief Dziobek working the night shift on a regular basis. Sergeant Hoar said that he has seen Chief Dziobek working after 6:00 p.m. when both were on the night shift.

As all the evidence has been presented and the witness testimony given, Mr. Halpert said that the Select Board will deliberate this matter in executive session. This can be done tonight or at another time. After some discussion, Chair Quinn agreed to open the floor to public comment at this time.

Gordon Bock is a Northfield resident and taxpayer. He believes that Chair Quinn and Selectman Gadbois made good points regarding the need for better communication. Mr. Bock also believes that the issues raised in the October 13, 2015 letter should have resulted in further discussion and not a rush to terminate Chief Dziobek's employment. He feels that Chief Dziobek and the officers he has recruited have been there to help him and his family on many occasions. He then asked if any Town residents have come forward to request that Chief Dziobek be dismissed. Mr. Bock feels that Manager Schulz's complaints about Chief Dziobek's work performance do not justify his termination under state law. Mr. Bock also does not believe that Chief Dziobek's presence in Northfield on the day of the Amtrak accident or the day after would have made any difference. He felt that Chief Dziobek's attendance at that mental health conference directly helped his family since Chief Dziobek was able to provide Mr. Bock with valuable information and resources when needed. Mr. Bock believes that Chief Dziobek is not a simple "pencil pusher" but an active participant in community policing. Mr. Bock fears that should Chief Dziobek be dismissed, the talented officers he has recruited will leave as well.

Charles Morse was out of state when the rumors of Chief Dziobek's possible dismissal first circulated. He is astounded by what is going on now. The Town's personnel policies specify how many hours NPD officers can work. Mr. Morse is also dismayed that the Town has released the October 13, 2015 letter to members of the public who have requested a copy. This letter contains private personnel information and should not be in the public domain. Chair Quinn stated that Chief Dziobek and his attorney agreed that the letter could be made available on request.

Kelly Driscoll Smith also believes that Chief Dziobek has done a wonderful job. She also can confirm that he does work nights since he has met with her on a number of occasions.

Rowley Brucken believes that none of the issues in the aforementioned letter rise to the level of termination. He believes that there has been a lack of due process and that alleged misconduct without evidence does not justify Chief Dziobek's dismissal. Mr. Brucken also feels that should Chief Dziobek be dismissed, it might be very difficult for the Town to recruit his replacement. The show of support for Chief Dziobek that is indicated by the number of law enforcement officers present is another reason to believe that his dismissal will have dire results for the community. Mr. Brucken has been working with the Community Justice Center to train mediators that can assist residents in resolving issues that might ordinarily require a police presence. Chief Dziobek has been very supportive of these efforts. Mr. Brucken feels that because of his positive work performance and the lack of due process (i.e., written warnings) in this case, the Select Board should not terminate Chief Dziobek's employment.

Cindy Spaulding agrees with all those who have spoken in favor of Chief Dziobek's continued employment. She also feels that any problems with grant management should ultimately be the Town Manager's responsibility. Ms. Spaulding believes that the current Select Board does not represent how the majority of Northfield residents feel about Chief Dziobek and his department. Too much hostility has been expressed towards Chief Dziobek and his officers on a number of occasions. Given the amount of difficulty Ms. Spaulding has had receiving responses in a timely manner from Manager Schulz, she also suggested that it might be time for residents to petition to have the local form of government changed from the Town Manager form to that with a Town Administrator instead.

Chris Dziobek is Chief Dziobek's brother and he stated that Chief Dziobek is a born leader. His is an Eagle Scout who later became the youngest Police Chief in the history of Hardwick, Vermont. He has always known his brother to be a dedicated public servant who always does what's best for the people he serves.

James Dziobek III is Chief Dziobek's son. He said that his father has been a police officer for the entirety of Mr. Dziobek's life. At many times family matters had to take a back seat when duty called. Mr. Dziobek said that he cannot recognize the image of his father as has been presented tonight as a power-mad leader, etc. He is especially concerned that Chief Dziobek was not provided with any warnings, written or otherwise, before termination proceedings began. Mr. Dziobek added that his father is a good guy who is able to retire at any time but is here tonight to fight to keep his position due to his love for Northfield.

Skip Davidson is a Central Street resident and his experience is that Chief Dziobek has done a good job in providing leadership to his department. He does not know why communication broke down so poorly between Manager Schulz and Chief Dziobek. Mr. Davidson hopes that after considering the evidence, the Select Board will decide to retain Chief Dziobek so that proper communication can restart.

Michael Philbrick is a Montpelier Police Officer who also works as a part-time officer in Northfield. He started working for NPD because of Chief Dziobek as well as the opportunity to work with the other capable NPD officers that Chief Dziobek has recruited and trained. Officer Philbrick believes that this has become an effective department under Chief Dziobek's leadership. He often enjoys conversations with Chief Dziobek both before and after his work shifts. He believes that Chief Dziobek is a treasure who should not be dismissed so easily and that the public support shown for him tonight should be taken into consideration.

Mary Ann Grebe has worked in law enforcement for over thirty-four (34) years and has supervised more than seventy (70) officers at a time. She is very upset that the Select Board has made false allegations against Chief Dziobek without a proper investigation. Ms. Grebe also is dismayed that the proper procedure of issuing written reprimands prior to commencing a termination process was not followed. She felt that an effective Police Chief should be allowed to work a floating schedule in order to interact properly with his/her officers. The turnover in NPD Chiefs in recent years is a good indication that the current problems probably lie with the Select Board and not with Chief Dziobek. Ms. Grebe personally knows Chief Dziobek and feels that he is a good person. It also seems that the many residents who showed up tonight share this opinion. If the Select Board members still believe that they have cause to dismiss him, they first should restart the process and follow proper procedures. Chair Quinn feels that the Select Board has been following the proper procedures as shown by holding this public hearing before making any decision.

Mr. Appel then thanked Chair Quinn for maintaining order during this difficult proceeding. Chair Quinn noted that the Select Board will hold an executive session later tonight and at that time will decide how to proceed. There being no other discussion, the Pre-Termination Hearing closed at 9:35 p.m. The meeting then went into recess for five (5) minutes.

IV. PUBLIC HEARING

- a. **Fox Farm Road Discontinuance.** Chair Quinn stated that the owners of the property that Fox Farm Road bisects have asked that the road be privatized so that they can effect repairs to it. A site visit was held this afternoon so that Select Board members and other residents could view the actual condition of the road. There being no questions or comments, Chair Quinn closed the Public Hearing at 9:40 p.m.

V. SET/ADJUST AGENDA. Manager Schulz had no changes to the posted agenda.

VI. PUBLIC PARTICIPATION (SCHEDULED):

- a. **Arlington Supplee, Board of Listers: 2015 Grand List Errors & Omissions.** Mr. Supplee has three (3) parcels that have incorrect taxable values that he recommends the Select Board should fix. The first is a parcel that has newly enrolled in the Current Use Program so that its taxable value has dropped from \$82,800 to 56,600. The second parcel had a portion of its dwelling reclassified from unfinished to finished, which raises its taxable value from \$375,100 to \$436,700. The third parcel had increased value as a propane tank and outbuilding upgrades were now included, raising the value from \$470,600 to \$526,900. Motion by Selectman Gadbois, seconded by Selectman Goslant, to approve the corrections to the 2015 Grand List as recommended by Lister Supplee. **Motion passed 5-0-0.**

VII. APPROVAL OF MINUTES

- a. **October 27, 2015 (Regular Meeting).** Motion by Selectman Maxwell, seconded by Selectman Gadbois, to approve the minutes. **Motion passed 5-0-0.**
- b. **November 3, 2015 (Special Meeting).** Chair Quinn has not had the opportunity to review these minutes so he asked that approval be tabled until the next regular meeting (11/24/15). There was no objection.

VIII. APPROVAL OF BILLS

- a. **Warrant #10-16.** Motion by Selectman Gadbois, seconded by Selectman Goslant, to approve Warrant #10-16 in the amount of \$325,113.74. Selectman Doney asked about repairs to the garage door at the Police Station. Manager Schulz said that these doors had been a problem for some time. Selectman Doney asked about a payment for an “Energy Efficiency Charge.” Manager Schulz stated that all utilities are required to pay this charge, which is used to support energy efficiency programs. **Motion passed 5-0-0.**
- b. **Approval of Bi-Weekly Payroll through October 25, 2015.** Motion by Selectman Gadbois, seconded by Selectman Goslant, to approve the bi-weekly payroll in the amount of \$70,431.51. Selectman Doney asked about the levels of NPD part-time and overtime expenses. Manager Schulz said that there have been some ongoing staffing problems. **Motion passed 5-0-0.**

IX. SELECT BOARD

- a. **Approval of Fox Farm Road Discontinuance.** Motion by Selectman Gadbois, seconded by Selectman Goslant, to discontinue (i.e. “throw up”) Fox Farm Road. Selectman Maxwell was not at this afternoon’s site visit so he asked for a brief report. Chair Quinn said that the first one hundred feet (100’) of the road is good but the remainder is in very bad condition. The property owners are willing to pay for and have the work done but would like to own the road afterwards. **Motion passed 5-0-0.**
- b. **Elm Street Wall Replacement Bids.** Manager Schulz would like to postpone this discussion until the next meeting. Selectman Gadbois asked if he had found a copy of a previous engineering study. Manager Schulz said he did but the information is incomplete. Selectman Gadbois felt that that there was no point to having some of the preliminary work, such as boring, done a second time.

X. BOARD MEMBERS’ COMMENTS, CONCERNS, QUESTIONS

- a. **Trans-Video Broadcast.** Chair Quinn wanted to thank George Goodrich III and Trans-Video for installing the new audio equipment so that the Select Board meeting can be televised again on the local community channel. Mr. Goodrich said that they were glad to be back on the air.

XI. TOWN MANAGER’S REPORT. There were no questions or comments regarding Manager Schulz’s written report.

XII. PUBLIC PARTICIPATION (UNSCHEDULED). There was none.

XIII. EXECUTIVE SESSION. Motion by Selectman Goslant, seconded by Selectman Maxwell, to go into executive session, in accordance with 1 VSA 313 (a)(1), in order to discuss a personnel matter with Manager Schulz and Town Attorney Halpert present. **Motion passed 5-0-0.**

The Board went into executive session at 9:58 p.m.

Motion by Selectman Goslant, seconded by Selectman Gadbois, to come out of executive session. **Motion passed 5-0-0.**

The Board came out of executive session at 11:05 p.m. No action was taken. The Select Board will hold a Special Meeting on Friday, November 13, 2015, at 4:30 p.m. in order to conclude their deliberations.

XIV. ADJOURNMENT. Motion by Selectman Gadbois, seconded by Selectman Goslant, to adjourn. **Motion passed 5-0-0.**

The meeting adjourned at 11:06 p.m.

Respectfully submitted,

Kenneth L. McCann

Kenneth L. McCann, Acting Clerk

An audio recording of this meeting is available in the Town Manager’s Office.

These minutes were approved at the regular Select Board meeting of November 24, 2015.