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APPROVED

MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING

January 26, 2009

PRESENT: Gary L. Daniels, Chairman
Tim Finan, Vice Chairman
James Dannis, Member
Mike Putnam, Member
Katherine Bauer, Member
Guy Scaife, Town Administrator
Darlene J. Bouffard, Recording Secretary

1. CALL TO ORDER, BOARD OF SELECTMEN INTRODUCTIONS & PUBLIC SPEAKING

INSTRUCTIONS: The meeting was called to order at 5:00 p.m. Chairman Daniels led the Pledge of Allegiance and then introduced Board members, noting that those people in the audience who want to speak or add to the discussion should please go to the microphone in order to be heard on the PEG Access live broadcast.

2. APPOINTMENTS:

5:00 p.m. – Request to Approve Current Land Use Change Tax & Issuance of Warrant (2). Marti Noel, Town Assessor, presented information for two Land Use Change Tax (LUCT) applications. The first LUCT was for the property at 116 Osgood Road, which Ms. Noel is recommending to collect \$5,000 in LUCT since it appears approximately 10% of the property is being used as a commercial operation. Selectman Dannis asked about the change in use and if the town is treating owners fairly. Selectman Dannis would say there is a percentage of land in Milford that is not in compliance. What does the town do to be fair and not target just one owner. Ms. Noel indicated she has not been here that long and she is not sure how it was done in the past; however it is up to the taxpayer to inform the town when the land is removed from current use. Ms. Noel hopes to start an update of the Assessing records to ensure that properties in current use are being kept that way. Selectman Dannis said if the town goes forward and taxes a land owner with a penalty, there are lots of rules that need to be conveyed to the owners in order to enforce fairly. Ms. Noel stated as the Assessor, she is obligated to identify if a property is not in current land use. Land would not be taken out of current use if it is being logged. Selectman Dannis asked about land that might be used for a festival, for storage of cars or parking areas; would it come out of current use? Ms. Noel said it would depend on how often it is being done, it would need to be looked at on a case-by-case basis. Selectman Dannis asked what these LUCTs are for. Ms. Noel stated this has been an operation going on for many years, it is farm land that is not used for farming because there are trucks, logs and chippers and the transportation of materials and storage of materials; commercial activities are occurring on this property. Selectman Dannis asked if it could be farmed. Ms. Noel said it cannot be farmed underneath the stuff on the property.

Ms. Noel did contact the land owner on this. Selectman Bauer indicated the land owner was very forthcoming and Marti gave them the opportunity to call or come in to talk about it. The land needs to meet certain criteria for current land use. There are 15 storage trailers on this land, plus logs and a house, and it is stretching it to say it is still in current use. Vice Chairman Finan's concern is if there was sufficient time given to the land owner to respond. Ms. Noel has not heard anything from the owner and the letter went out January 5. Vice Chairman Finan asked if the town could give them 30 days. Ms. Noel figured it would be taken care of already, but if the Board of Selectman wants to hold it, she has no problem with that. Selectman Dannis said there is a complex set of rules, and he does not agree that the Board can say we see an operation therefore it is out of current use. It is not as clear as that, we need to make absolutely sure for this person to have an opportunity to respond. By statute, Guy Scaife said it is the taxpayer's responsibility to notify the Assessing Office when they change the use. Ms. Noel is not policing every property in town. This land is very clearly an operation doing things for others, not just internal, maybe three weeks is insufficient, but it would appear it should have been out of current use for some time now. One effort that will be taken by the town this year is to audit the town's current use. Current use is a huge benefit to the taxpayer but when they change it, they need to come forward. Guy Scaife understands this land owner is providing commercial efforts for other land owners and other clientele. Selectman Dannis asked if other land owners storing logging inventory on their land would be improper. Ms. Noel said the town would ask for them to come forward to talk if they disagree. Selectman Putnam moved to table to the next meeting. Selectman Dannis seconded. Select-

1 man Putnam, Selectman Dannis, Selectman Bauer and Vice Chairman Finan were in favor, with Chairman Daniels
2 opposed. Motion passed 4/1.

3
4 Marti Noel presented the second LUCT application for 114 Osgood Road, for which ownership has changed and the
5 acreage is too small to remain in current use. Selectman Dannis asked if this is related to the previous presentation.
6 Ms. Noel said it is but this application is due to a change in ownership and this parcel is too small to be in current
7 use on its own. Selectman Putnam moved to approve as presented. Selectman Bauer seconded. All were in favor.
8 Motion passed 5/0.

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10 **5:30 – Request to Accept Conservation Easement on the Wallingford Place Open Space from the Society for**
11 **the Protection of NH Forests.** Rita Carroll, Conservation Coordinator, presented the information regarding the
12 request for the Board of Selectmen to authorize the Board Chairman to sign the easement deed accepting the con-
13 servation easement on the Wallingford Place Conservation Property. Ms. Carroll indicated that Diane Fitzpatrick
14 called the Society for the Protection of NH Forests regarding this property after which a letter was received which
15 explained the situation. Selectman Putnam moved to accept the easement and authorize the Chairman to sign on
16 behalf of the Board of Selectmen. Selectman Bauer seconded for discussion. Selectman Dannis said the reason this
17 went back to the Society for the Protection of NH Forests was because the Board was presented with language that
18 stated “horse back riding, motor vehicles and bicycles were prohibited”. The letter received from them does not say
19 they will allow those activities but that they will consider it based on the advice. Selectman Dannis indicated this
20 property is mostly wetlands and has old trails. Selectman Dannis does not see anything different now except that
21 they will look into it. Rita Carroll said they want to keep that reserved right. Selectman Dannis does not think the
22 town should surrender prohibitions such as biking or horse back riding on that land. Selectman Dannis disagrees
23 with that. Rita Carroll stated this land was obtained as part of an open space development, it is not all wetlands; the
24 Society for the Protection of NH Forests owns this property. They can sell it, they do not have to keep it. Select-
25 man Dannis will vote no on this, there are large pieces of land in town that will not allow the use of ATVs or horse
26 back riding, and he does not think most people want to just look at the land, they want to use it. Chairman Daniels
27 said the Society for the Protection of NH Forests owns this property, if the town rejects this, it does not have any
28 access to it, the town either accepts what they give us or it has nothing. Selectman Dannis asked how that happened
29 since the town was part of the transaction. Rita Carroll said in 2003 it was presented to the Board of Selectmen, and
30 they voted to approve the conveyance of the Wallingford Open Space, and granted permission for the Conservation
31 Commission to have legal counsel review the paperwork. Selectman Dannis asked if that is stated anywhere in
32 those minutes that it was the start of a transaction that would prevent the residents of Milford using the land. Se-
33 lectman Dannis suggested that the town could attempt to negotiate or it could surrender the rights forever. Chair-
34 man Daniels felt the directive from the Society for the Protection of NH Forests was very clear. Selectman Bauer
35 indicated many people use this type of land just for hiking or walking, there are people that appreciate not having
36 bikes, ATVs or horses going through. They were clear in the response so she sees no reason to go any further with
37 this. Selectman Dannis noted the letter says they will consider what to do in the future when there is further input.
38 Selectman Putnam, Selectman Bauer, Vice Chairman Finan and Chairman Daniels were in favor, with Selectman
39 Dannis opposed. Motion passed 4/1.

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42 **3. PRESS AND PUBLIC COMMENTS (regarding items that are not on the agenda):** There were none.

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44 **4. DECISIONS:**

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46 **a) CONSENT CALENDAR.** Chairman Daniels asked if there were any items to be removed from the Con-
47 sent Calendar. He explained that if they are taken off the Consent Calendar, they will be discussed fully; otherwise
48 they will be accepted together without discussion. There were no items removed for discussion. Selectman Putnam
49 moved and Selectman Bauer seconded to approve the Consent Calendar, as follows, with all members in favor.

50
51 **(1) Request to Approve New License to Sell Pistols and Revolvers.** Nicholas D’Augustine requested and
52 was granted Board permission to open a store in Milford to sell sporting arms, ammunition, hunting and shooting
53 accessories as well as safes and safety equipment.

54
55 **b) OTHER DECISIONS**

1 (1) **Deliberative Session Preparation.** Chairman Daniels asked if the writers of the majority reports for
2 each Warrant Article should speak to the Warrant Article at Deliberative Session. Selectman Bauer
3 thought that Guy Scaife would explain the articles. Chairman Daniels indicated that Guy Scaife will ex-
4 plain if the Board asks him to. Mr. Scaife will provide an explanation about the Operating Budget. Se-
5 lectman Dannis thought it should be at the Chair's discretion. Chairman Daniels did not want anyone to be
6 caught off guard. Even if writing the minority report, members may still be asked to speak to it at delibera-
7 tive session.
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9 (2) **Request for Attendance at NHMA Membership Meeting Regarding State Revenue Sources.** Chair-
10 man Daniels asked if any Board members would like to attend the January 30, 2009 Municipal Advocacy
11 Committee meeting. Selectman Dannis indicated the letter from NHMA identifies the Chairman as the de-
12 fault. There being no other interested members, Chairman Daniels indicated that he will attend the meet-
13 ing.
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15 (3) **Consideration of PEG Access Revolving Fund & DO-IT Operating Budget Support Warrant Arti-**
16 **cles.** At the last Board meeting, there was a discussion about the proposed PEG Access Revolving Fund
17 Warrant Article. Chairman Daniels has received some feedback from the PEG Access Committee, indicat-
18 ing there was some confusion about when the money would be transferred. Chairman Daniels modified
19 the Warrant Article to simply establish the revolving fund. Selectman Bauer said there is no money asso-
20 ciated with this Warrant Article; asking if it is necessary to state an amount. Chairman Daniels said it does
21 not. Selectman Dannis asked if a time table will be set. Chairman Daniels said the intent is not to have
22 fees come out of this year's budget, but in the next budget cycle the fees will be directed to the revolving
23 fund. Guy Scaife spoke with Dave Kirsch, PEG Director, who identified the statute specifies that the
24 money will be used for expenses of PEG Access and as the PEG Director, Dave currently assists with
25 computer backup, therefore we would need to have a division of labor and have a budget to cover his other
26 roles. Chairman Daniels noted that is not unlike what is done in other areas. Vice Chairman Finan said the
27 Warrant Article would be just to adopt the revolving fund, the funds generated by the department can go
28 directly in the fund so it can be used right away. Any or all funds from fees, charges, or activities can go
29 directly into the fund. That would be the decision of the Board of Selectmen. Chairman Daniels said the
30 franchise fees will not be taken out of the budget this year, but next year they would be. In the future, Vice
31 Chairman Finan said if the Board goes the route of all fees going into the fund, next year we would need to
32 be sure to fund the department in case the Warrant Article fails to ensure the department is funded. Chair-
33 man Daniels indicated the Board needs to ensure the legal language is in there to cover that. Chairman
34 Daniels asked if anyone wishes to change their vote on the Warrant Article. Selectman Dannis said he
35 does not want to change his vote because he does not feel it is appropriate to designate \$30,000 to a special
36 purpose fund, so he is not changing his vote. All other members chose to maintain their support of the Ar-
37 ticle with modified language. Regarding DO-IT, Vice Chairman Finan had asked for that to be discussed
38 tonight, however, he withdrew that request.
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40 **5. TOWN ADMINISTRATOR REPORT:**

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42 a) **Recycling/Co-Op Contract.** Discussions have been ongoing regarding single stream waste management.
43 Guy Scaife indicated that the Concord Co-Op will open in 2010. A decision needs to be made by May 1 of this year
44 whether or not Milford is interested. Concord is looking for long term commitments to join and needs a contractual
45 obligation for tonnage. As a Board, we need to make a decision, for which there are two elements: Does the Board
46 of Selectmen concur that moving toward single stream is the right decision and if the Board disagrees with that
47 there would be no need to entertain any contract. If you do wish to go that route, the decision will be to commit to a
48 contract with the Co-Op. The alternative would be to go with a for-profit organization to take the materials. The
49 Co-Op is in the town's best long term interest. If there is any concern, please bring them to Guy Scaife or Bill
50 Ruoff. Chairman Daniels asked if this goes with curbside pick up. Guy Scaife said they are independent of each
51 other. Milford could do single stream this year. Single stream works with or without curb side pickup, but not the
52 other way around. Vice Chairman Finan indicated the market for recycling has dropped off, and asked if that af-
53 fects Milford? Guy Scaife has asked for a white paper on that. Selectman Bauer asked for a description of single
54 stream for the viewers, and why the town mingles, then separates. Guy Scaife provided a description of single
55 stream. There was no further discussion.
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APPROVED OF BOARD OF SELECTMEN MEETING - 1/26/2009

b) **Miscellaneous.** There was a post ice storm meeting a few weeks ago to evaluate what was done right and wrong and to build on that. There were some action items that came out of that meeting. FEMA representatives have not been in town yet. Part of the clean up will continue into July, FEMA is not in a rush to get it completed because Milford will not have all the costs together until that time.

Guy Scaife attended a session with Congressman Hodes to discuss the upcoming recovery and stimulus package. The meeting was to seek input from various towns. Guy Scaife indicated it was nice to be asked his opinion and to understand that the House is working on their version, noting it is a long way off. They hope something will be in front of the President by mid-February.

6. **DISCUSSIONS:**

a) **Budget Update/Warrant Articles.** Chairman Daniels indicated at the last meeting, the Board did not take a position on Warrant Article 27 for Non-Emergency Medical Transportation Bus Service Budget Funding Request - \$20,000 – by Petition. Selectman Bauer said it is a petition Warrant Article and she understood the Board did not need to take a position on those. Guy Scaife explained because there is a budgetary impact, the Board needs to take a position. Chairman Daniels said the Board asked for a more detailed plan to be submitted, asking if that has been received? Guy Scaife said it has not. Chairman Daniels asked if there were any questions from the Board. There were none. Selectman Putnam moved to support this petition Warrant Article. Selectman Bauer seconded. Selectman Dannis said the Board never received the additional information, how can it take a position. Guy Scaife has had no further dialogue with them, he does not believe it was a mandate for them to provide additional information. It would be nice to see that information, but it was not a clear directive for them to do that. Vice Chairman Finan spoke with Janet Langdell who thought they would be getting back to the Board, so can that be presented at deliberative session? Guy Scaife said the Warrant must be posted tonight. Vice Chairman Finan is prepared to support it now, but would like the additional information. Selectman Dannis asked if this \$20,000 is being taken from somewhere else. The government should not create any new programs at taxpayer expense in this economy, if \$20,000 was found elsewhere, that is fine. Chairman Daniels said it is an additional \$20,000. Selectman Bauer said the people being serviced by this bus will increase, she thinks there will be more demand for this. Chairman Daniels said he will also vote against this tonight because he expected additional information to be provided. Vice Chairman Finan, Selectman Putnam and Selectman Bauer were in favor, with Chairman Daniels and Selectman Dannis opposed. Motion passed 3/2.

Articles 19/20 for the Authorization to Expend Funds for Contributions to Purchase Lands Without Taking Property Interests (19) and Authorization to Expend Funds to Purchase Interest in Lands Outside Town Boundaries are supported by the Conservation Commission. After the Board of Selectman recommended a legal review of the language, Bill Drescher reviewed it and found that the language must be as it was presented in the original warrant articles, which was questioned at the last meeting. Guy Scaife spoke with Diane Fitzpatrick who is not concerned about this not getting in the warrant, if the Board wishes to hold off, it could be brought forward next year. Chairman Daniels asked if anyone would like to change their vote. Selectman Putnam moved to delete Warrant Article 19. Selectman Dannis seconded. All were in favor. Motion passed 5/0. Warrant Article 20 will remain as it stands.

Petition Warrant Article 28 is illegal as written, however it is by petition so it must be presented as it was received. Selectman Dannis stated even if it is passed by voters, the town will not enforce it. Chairman Daniels said that is correct. Chairman Daniels asked if the Board of Selectmen and BAC support could be in the same location in each warrant, for ease of voters. Dawn Griska will look into that.

b) **Board of Selectman Goals.** Chairman Daniels will send an updated list of Board goals to members for review and it will be discussed at the next Board meeting.

7. **SELECTMEN’S REPORTS/DISCUSSIONS:**

a) **FROM SPECIAL BOARDS, COMMISSIONS & SPECIAL COMMITTEES.**

b) OTHER ITEMS (that are not on the agenda)

8. APPROVAL OF FINAL MINUTES.

Selectman Putnam moved to approve the minutes of December 30, 2008 as presented. Selectman Bauer seconded. Selectman Bauer, Vice Chairman Finan, Selectman Putnam and Chairman Daniels were in favor, with Selectman Dannis abstaining. Motion passed 4/0/1.

Selectman Putnam moved to approve the minutes of January 5, 2009 as presented. Vice Chairman Finan seconded. Selectman Bauer, Vice Chairman Finan, Selectman Putnam and Chairman Daniels were in favor, with Selectman Dannis abstaining. Motion passed 4/0/1.

Selectman Putnam moved to approve the minutes of January 12, 2009 as presented. Vice Chairman Finan seconded. Selectman Bauer, Vice Chairman Finan, Selectman Putnam and Chairman Daniels were in favor, with Selectman Dannis abstaining. Motion passed 4/0/1.

Selectman Putnam moved to approve the minutes of January 19, 2009 Budget & Bond Hearing as presented. Vice Chairman Finan seconded. Selectman Bauer, Vice Chairman Finan, Selectman Putnam and Chairman Daniels were in favor, with Selectman Dannis abstaining. Motion passed 4/0/1.

9. INFORMATION ITEMS REQUIRING NO DECISIONS

10. NON-PUBLIC SESSION:

Selectman Putnam moved to enter into non-public session at 6:20 p.m. to review NPS minutes (legal) of January 12, 2009. Vice Chairman Finan seconded. All members were polled individually and assented to enter into NPS session for minutes review. Selectman Putnam moved to unseal the NPS minutes of January 12, 2009 for review. Vice Chairman Finan seconded. All were in favor. It was suggested that the word "been" be removed from line 27. All concurred. Selectman Putnam moved to approve the NPS minutes of January 12, 2009. Vice Chairman Finan seconded. All were in favor. Motion passed 5/0. Selectman Putnam moved to re-seal the NPS minutes of January 12, 2009. Vice Chairman Finan seconded. All were in favor. Motion passed 5/0.

11. ADJOURNMENT:

There being no further business to come before this Meeting, Selectman Putnam moved to adjourn at 6:25 p.m. Vice Chairman Finan seconded. All were in favor. Motion passed 5/0.

Gary Daniels, Chairman

Mike Putnam, Member

Tim Finan, Vice Chairman

Katherine Bauer, Member

James Dannis, Member