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APPROVED

MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING

December 28, 2009

PRESENT: Tim Finan, Chairman
Gary Daniels, Vice Chairman
Katherine Bauer, Member
Mike Putnam, Member
Nate Carmen, Member
Darlene J. Bouffard, Recording Secretary

EXCUSED: Guy Scaife, Town Administrator

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

INSTRUCTIONS: Chairman Finan called the meeting to order at 5:30 p.m. and welcomed those in attendance to the Board of Selectman meeting. Following introductions of Board members, Chairman Finan led the audience in the Pledge of Allegiance. Chairman Finan noted that those people in the audience who want to speak or add to the discussion should please use a microphone in order to be heard on the PEG Access live broadcast.

2. APPOINTMENTS:

5:30 p.m. – Bridge Street & Union Square Crosswalk Relocation/Parking Issue. George Lawrence, Red Arrow Diner representative had spoken to Guy Scaife at the last Board of Selectman meeting. Since then, the Town Administrator has talked with Mr. Lawrence and DPW. DPW has agreed that 4-5 parking spaces can be provided on the northwest side of the oval for a total of 9 spaces on the oval exempted from the overnight parking ban during snow plowing season. Guy Scaife has been in contact with Police Chief Douglas about the loading zone as well. Legally there is a loading area in the front of every business, if the Bridge Street side were used for loading; Chief Douglas would not have an issue with it. The only remaining issues are the two parking spaces in front of the Diner. The recommendation in 2008 from the Traffic Safety Committee was to move the crosswalk southerly and push the two spaces northerly but the Planning Director said there are some issues with that and he recommended not doing it. The planning staff recommends getting rid of the one space and leave the crosswalk where it is. Chairman Finan is not comfortable with getting rid of one space; he would like additional information before making any decision. Selectman Putnam would like to see additional information as well. Chairman Finan indicated the corner of the bridge and Bridge Street may not be stable and digging up the curb could affect the structure of the diner. Selectman Bauer agreed if substantial digging were done, it could affect the structure of the diner. It was looked at, and there is no funding available to have this properly engineered. Selectman Putnam said he will pursue this with Planning Director Bill Parker and DPW Director Bill Ruoff. Vice Chairman Daniels does not know of any reason why one crosswalk can't run into another crosswalk. Mr. Lawrence agreed.

Chairman Finan noted that there was talk of making a "bump out" but that is not necessary. Mr. Lawrence walked across the oval and he wonders why it cannot just go across at the existing crosswalk. Selectman Putnam said he will look further into this with Mr. Parker and Mr. Ruoff. Mr. Lawrence said the regular parking every night is fine; people are not getting ticketed until 2:00 a.m. Selectman Bauer suggested that Mr. Lawrence check with Dawn Griska to see if the ordinance is midnight or 2:00 a.m. Chairman Finan noted this Board is looking at a better solution for the overnight parking. Vice Chairman Daniels asked about the parking discussion for Bridge Street. Chairman Finan explained that the fire trucks could not go down Bridge Street if there were cars parked on one side. Vice Chairman Daniels asked why the fire trucks can't return using Middle Street. Selectman Bauer noted that using Bridge Street for returning fire trucks to the station from a call is more convenient than any other road.

5:45 p.m. – Public Hearing – East Milford Cooperative CDBG Progress. Chairman Finan opened the public hearing at 5:45 p.m. Chairman Finan read the following:

“Community Development Block Grant (CDBG) projects require a progress public hearing prior to the close-out of a project. The hearing is to inform the public of the project's progress and to solicit public comment on the progress.

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1 The Town of Milford, on behalf of the East Milford Cooperative, received a CDBG Emergency Grant of
2 \$153,000 for the replacement of a failed retaining wall and associated drainage improvements. The failed
3 wall was impacting the access and structural support of three (3) homes at the East Milford Cooperative
4 Inc.'s park on Ponemah Hill Rd. The project involved the removal of the failed wall and replacement with
5 a 1 to 4 ft high x 170 ft long interlocking concrete block retaining wall. A total of four (4) concrete dry
6 wells were installed to address drainage issues. Provan & Lorber Inc., Contoocook, NH, designed the im-
7 provements with construction by Leighton A. White, Inc. Milford NH. The project was completed in No-
8 vember 2009.”

9
10 Chairman Finan asked for public comments. Seeing none, Chairman Finan closed the public hearing at 5:47 p.m.

11
12 In order for the Town of Milford to apply for, and possibly be granted CDBG grants, the town must perform a 504
13 self-evaluation of its buildings to insure that the facilities are handicap accessible and if not, to take appropriate ac-
14 tion to provide handicap accessibility. This self-evaluation has been performed and the findings indicate that all
15 town-owned buildings are handicap accessible and no structural actions are required.

16
17 Selectman Putnam moved to accept the 504 Self-Evaluation Plan for Handicap Accessibility for the Town of Mil-
18 ford. Selectman Bauer seconded. All were in favor. Motion passed 5/0.

19
20 **6:00 p.m. – 2010 Warrant Article Proposal – Funding for PEG Access Revolving Fund.** David Kirsch,
21 community Media Director and the PEG Access Advisory Committee Members Joe Kasper (Chairman) and John
22 Parker were present for this discussion. Chairman Joe Kasper indicated the advisory committee wished to get input
23 from the Board as to whether or not it is felt it would be worth having a Public channel in addition to the Education
24 and Government channels and fund it with an increase of the franchise fees. Anyone in the town could create a
25 program to be played on the Public channel through PEG Access for example, the Lion's Club, Hunting or Fishing,
26 Book Reviews, etc. to open up cable television for those interested in cable television. Opening up the Public
27 channel would require additional funding. Currently, Mr. Kasper explained the town is at a 3% franchise fee that is
28 given to the town in the General Fund. If that could be increased to 5%, the difference could be put directly into the
29 PEG Revolving Fund that was established in 2009 in order to bring forward the Public channel.

30
31 Dave Kirsch would like to bring forward a Warrant Article stating that if there were any increases in the franchise
32 fees, that additional revenue would go into the Revolving Fund for PEG Access. Vice Chairman Daniels asked what
33 are the plans for use of the existing 3% fee. Will a Warrant Article be put to the voters and if it passes, what will it
34 be spent on? Dave Kirsch does not think that is needed. Vice Chairman Daniels noted the only people paying the
35 franchise fee, which goes into the General Fund, are the cable subscribers, why should they have that additional tax?
36 Dave Kirsch responded that it is not a tax; it is a fee similar to a dog tag fee that also goes in the General Fund. The
37 non-cable subscribers do not have access to Channels 20 and 21 and cannot watch those broadcasts; therefore the
38 cable subscribers are getting that additional information. This is a benefit that opens up a democracy to the
39 community that the non-cable subscribers do not get. By increasing the fee to add the public portion, they get more
40 value. Vice Chairman Daniels filed the bill last year for the cable subscribers to pay that extra fee; the franchise fee
41 should go into a specific account for the cable service. Mr. Kirsch indicated the funding goes toward the staff that
42 works for the department as well as hardware. The money currently goes into the General Fund and provides
43 support for PEG access.

44
45 Vice Chairman Daniels asked if Milford would still have cable access television if the 3% were cut to zero. Dave
46 Kirsch did not know, whether the department is a “must have” or a “want” would need to be determined. Chairman
47 Finan feels that the community would not be opposed to having all of the franchise fees go into the PEG Access
48 fund. If that were to go specifically to PEG Access and not the General Fund, that would impact the taxpayers. If
49 this gets increased, that increase would go specifically to PEG Access. Mr. Kasper indicated that PEG Access gets
50 funded from the 3% to run the Government and Education channels. Last year, Vice Chairman Daniels said a bill
51 was established to set up a Revolving Fund for PEG Access. Dave Kirsch indicated that the attitude is that the town
52 does not want to do anything that will impact the tax rate. The public portion will come at a cost. The fee is going
53 to go up, but the question is whether it will go up now and go to the town or if we wait, all the benefit goes to the
54 Comcast shareholders. Dave Kirsch would rather see an increase now and see Milford benefit from it. Joe Kasper
55 said Comcast may see this as an opportunity to compete with satellite TV. If Milford raises the franchise fee, Dave
56 Kirsch said it will be increased in 90 days; if we do not increase the franchise fee now, the town will not benefit,
57 Comcast is the only one that will benefit. Selectman Bauer asked if the fee could be increased to 4%. Dave Kirsch
58 would not want to do an incremental increase, just do the whole thing. Federal law states communities can have a

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1 5% franchise fee; the town will be in negotiations with Comcast in the next year; if Milford is not already collecting
2 the 5% when we enter negotiations it will never get it.

3
4 Mr. Kasper added that the PEG Access Committee wants to already be at 5% when we go into contract negotiations.
5 Selectman Bauer asked if there has been demand for this type of public programming. Dave Kirsch said people see
6 that Milford does not have the public programming but we have people who want to promote fundraisers – all non-
7 profits have people that do not fall under the Education or Government umbrella. Mr. Kasper asked Dave if there
8 are any other groups interested in this. Dave Kirsch responded that groups like the Rotary, Churches and other
9 organizations that do not fall under Government or Education have called. He has heard from about two
10 organizations per month.

11
12 Selectman Putnam indicated non-profit organizations have overhead costs, could they be charged a small fee? Dave
13 Kirsch responded that would never support a Public channel; Concord supports their channels and was doing
14 fundraisers, but it does not support the whole operation. Selectman Putnam indicated increasing the Franchise Fee
15 might be just \$1 per month but everybody wants that \$1 and he does not think the Town should be in the business of
16 television, but he is running out of money to support stuff like this; he just cannot support it. Dave Kirsch said that
17 the \$1 will still be charged. Rodney Richey indicated the Board of Selectman should take into account the Town
18 communication policy and processes; we have PEG Access and the website and we as a town must look at the total
19 methodology of communication. Mr. Richey is also concerned about the costs; the website needs to be looked at as
20 well. Very few people do not have access to the internet. Mr. Richey does not know of another cable supplier.

21
22 Dave Kirsch added that it is always negotiable to reach contract agreement. Mr. Richey added that if there is no
23 alternative, the town is over a barrel. Vice Chairman Daniels asked if Info-mercials will be broadcast. Dave Kirsch
24 responded that no commercials can be done for for-profit organizations. Politicians can advertise. Public access is a
25 First Amendment Right channel; it is a way to make a venue for people to express themselves and be heard. Vice
26 Chairman Daniels asked why he has to pay for his opponents' commercials. Dave Kirsch said people are paying for
27 it anyway. Vice Chairman Daniels said he does not have to give money to his opponent's campaign; that is
28 unconstitutional. Mr. Kasper noted that politicians get public money. Dave Kirsch pointed out that the franchise
29 fees are not a tax, those subscribers that choose to get cable television pay the franchise fee. Vice Chairman Daniels
30 disagreed. Dave Kirsch said that the franchise fee is similar to a dog license; people have a choice whether or not to
31 have cable as they have a choice whether or not to own a dog.

32
33 Chairman Finan indicated the Board is here to discuss the Revolving Fund for PEG Access, not the franchise fees.
34 Selectman Carmen agrees it is a fee that cable subscribers pay to have the right to watch the PEG channels; if that
35 fee was not charged, the channels would not exist. The PEG Revolving Fund was set up so the money could go
36 right into the fund. Selectman Carmen believes it is a positive thing but in going forward, if we have to identify
37 what is going in there, it needs to be clarified. The fee should be directly associated with what is the benefit. In
38 order for the money to be put into the PEG Access Revolving Fund, it must be put through the Board of Selectman
39 and the voters. Chairman Finan said this Board can appropriate money to be put in the budget. Selectman Carmen
40 said we need something to appropriate and then the Warrant Article needs to identify how much money. Dave
41 Kirsch said the committee is asking to put in a Warrant Article that if there are additional franchise fees, it would go
42 into the Revolving PEG Fund if there is an increase in the franchise fee in the future, that would go into the PEG
43 Revolving Fund. Selectman Putnam asked how much the PEG budget is. Dave Kirsch said it is down to \$72,000
44 and there is about \$110,000 in franchise fees; which goes up each year because of increased subscribers.

45
46 Chairman Finan indicated there are three issues with PEG; the 3% franchise fee; increasing the franchise fee; and a
47 Warrant Article for the fees to go into the PEG Revolving Fund. This Board will vote for the Warrant Article at
48 some point but is there consensus from the Board at all? Vice Chairman Daniels said if it is stated "IF the fees
49 increase" then the extra franchise fee can go into the PEG Revolving Fund. Selectman Putnam is not in support of
50 adding an additional 2% franchise fee to be put into the PEG Revolving Fund. Mr. Kirsch stated if there is not a
51 Warrant Article and the Board decides to raise the franchise fee, that money would go into the General Fund.
52 Selectman Putnam said it should be looked at for the next voting year. Mr. Kirsch indicated if the franchise fee were
53 dropped, the Comcast bill will not be decreased. Selectman Putnam noted there is no cable competition in town and
54 he is forced to pay this tax. The fees are more than what the costs are. Mr. Kirsch said the franchise fees have
55 nothing to do with cable access, it was to reimburse for the public rights of way. It is basically a rental fee for use of
56 the public channel rights of way to run their cable lines. When cable bills go up, will it be the shareholders at
57 Comcast that benefit or the members of the community that will benefit? Chairman Finan said he will support the
58 Warrant Article because if it passes, we remove the possibility of the money being used for other purposes.

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1 Selectman Carmen agreed; he supports a Warrant Article and is not looking to increase a fee at this time but this is
2 paving the road for the future. It may be voted down.

3
4 Vice Chairman Daniels supports it for one year only and it would have to be re-introduced through discussions; it
5 could be a future Board that wants to increase the fee to 5%. He does not want the decision to be where the rates are
6 going. Chairman Finan is not sure if it might be better putting it with the term of the contract. Mr. Kirsch thinks
7 increasing the fees during this contract year would be the best route. At the end of the contract year, would the
8 money stop going into that fund? Vice Chairman Daniels asked if the current contract addresses the franchise fees
9 with the term? Mr. Kirsch said it does not, once the Town gets something; it is hard for the company to take that
10 away. Chairman Finan said they still could. Mr. Kirsch said the current contract is up in 2012; the negotiations will
11 start in 2011. Vice Chairman Daniels said the Board would still have the option to raise the franchise fee to 5%
12 during the term of the contract. Mr. Kirsch said yes, the Board always has that option. Selectman Bauer asked if
13 this change in wording will be proper. Chairman Finan does not think it is; it sounds like there are three people
14 supporting the general idea; but this is not the last time this will be voted on. Selectman Bauer is not convinced that
15 an additional \$1 per month per subscriber is necessary for the Public channel. Mr. Kasper said the advisory
16 committee can determine how much of a need there is for a Public channel. Selectman Putnam said this will be
17 looked at further and in depth.

18
19 **6:30 p.m. – We The People Forum.** Milford High School’s “We The People” members Dave Alcox (teacher), Ben
20 Carmen, Jillian Joyce, Shema Rudbi, Dan Thompson and Jodi Murphy were in attendance to have the Board of
21 Selectman answer some questions from the group that will assist the team in their learning and be practice for the
22 team’s State competition on January 8, 2010. After some questions and answers, the team rated the Board and
23 indicated the Board seems to know their stuff concerning town politics and operations.

24
25 **3. PUBLIC COMMENTS (regarding items that are not on the agenda)**

26
27 **4. DECISIONS**

28 a) **CONSENT CALENDAR.** Chairman Finan asked if there were any items to be removed from the Consent
29 Calendar. He explained that if they are taken off the Consent Calendar, they will be discussed fully; otherwise they
30 will be accepted together without discussion. Selectman Putnam moved and Vice Chairman Daniels seconded to
31 approve the Consent Calendar as follows, with all members in favor.

32
33 (1) **Acceptance of Unanticipated Funds Under \$5,000.** It was requested and approved to accept the
34 unanticipated funds under \$5,000 as follows:

<u>Source</u>	<u>Amount</u>	<u>Purpose</u>
Various Clients	\$900.00	Marital Mediation Fees
Granite Baptist Church	\$991.43	General donation to the Milford Fire Department. The Milford Fire Department wishes to designate this donation to the Fire Rescue Donations Special Purpose Fund
<u>Acceptance of Gifts of Property</u>		
Christopher Nervik		1996 Toyota Camry donated to the Milford Fire Department to be used in training exercises. This has an approximate value of \$2,100.

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49 Request was granted by the Board of Selectman.

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51 **b) OTHER DECISIONS**

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53 Chairman Finan indicated if the Board does not support the Souhegan Valley Transportation Collaborative
54 Warrant Article, the group will go with a Petition Warrant. Chairman Finan said because it is the end of
55 the year, this is a discussion issue, if not tonight, the Board should meet next week and not wait until the
56 next regular Board meeting. The Board needs to get consensus of whether or not the Board supports it. Se-
57 lectman Bauer agreed, the SVTC gave the Board paperwork as requested that was very detailed. Selectman
58 Carmen thought the Board could talk a little about it and then review the details. Selectman Putnam agrees

1 with what SVTC is doing, but in the current economic climate, he cannot support it. He cannot spend any
2 more tax money to support this. Selectman Putnam would prefer to see it on a Petition Warrant Article.
3 What Selectman Putnam is hearing on the street is that nobody wants more taxes or fees. The SVTC is
4 doing great things, but money is tight for everybody. Everyone wants a buck. Chairman Finan said the
5 group is proposing a \$3 per motor vehicle fee; with the number of registrations, that would bring in about
6 \$49,000. Selectman Bauer is not sure this is the year to bring this forward. Selectman Carmen said it is
7 going to come down to if the taxpayers vote for it; but he feels \$3 per vehicle is too much. He does not like
8 to increase the budget but feels it is more beneficial to have it in the vehicle registration. Vice Chairman
9 Daniels noted the State just doubled vehicle registrations in August and this would increase the fees further.
10 Maybe the Board could hold a work session to talk about it and all the other requests. There are other re-
11 quests for money from other organizations and the Board needs to prioritize. Chairman Finan suggested
12 scheduling a meeting next week. A meeting was scheduled for Monday, January 4, 2010 5-7 p.m. Vice
13 Chairman Daniels wants to look at all the requests at the same time and prioritize.
14

15 **5. TOWN ADMINISTRATOR REPORT**

16
17 **6. DISCUSSIONS:**

18 (a) **Osgood Pond Dredging.** The Army Corp of Engineers will be here January 11, 2010 with an updated plan
19 and the financials.

20 (b) **Plowing Roads.** Roads that are not accepted and therefore not being plowed have been raised as an issue
21 by residents of those roads. There are different opinions within the town as well. This issue will be brought up at
22 the next Board meeting. Vice Chairman Daniels noted that the people who buy homes in those developments know
23 that the developer maintains the roads when they move in. Buses and plows will not go on roads that are not ac-
24 cepted by the town.

25 (c) **101 Bypass.** Selectman Carmen asked about the bypass paving; when will the work take place that was
26 brought up by Chief Douglas? Selectman Putnam thinks it is next summer. Chairman Finan said the memo stated
27 that he was going to call Chief Douglas and Guy Scaife later this week. Selectman Carmen thinks it should just go
28 to the Town Administrator to handle.
29

30 **7. SELECTMEN'S REPORTS / DISCUSSIONS**

31
32 **a) FROM SPECIAL BOARDS, COMMISSIONS & SPECIAL COMMITTEES.**

33 1-Selectman Bauer attended a recent Planning Board meeting at which a draft proposal for a rural commer-
34 cial district on a large parcel between North River Road and Route 13 toward Mont Vernon is being considered.
35 There was good discussion and members of the public were there; it affects the economic development of the town
36 and home owner's rights. It was a good discussion but the Planning Board decided it was too big to put on the zon-
37 ing changes in March 2010 but it will be ongoing over the next year.

38 2-Chairman Finan indicated PEG Access will change its name but requires a formal vote in the minutes.
39 Selectman Putnam moved to re-name the PEG Access Committee to the Granite Town Media Advisory Committee.
40 Selectman Bauer seconded. All were in favor. Motion passed 5/0.

41 3-Selectman Bauer explained that Bill McKinney may be asking for an extension of the deadline for the
42 engineering effort for the businesses across the oval along the river with failing foundations. The deadline of De-
43 cember 31 will not be met. Selectman Putnam would like to see the progress, noting that nothing was received yet
44 from Mr. McKinney. Vice Chairman Daniels said if this Board wants to discuss it on January 4, it could grant an
45 extension at that time. Currently, it expires December 31, 2009. Selectman Carmen said the last update was that
46 positive progress was being made, he thinks a 30-day extension would be good. Chairman Finan suggested that Bill
47 McKinney be given the authority to extend the deadline up to 30 days. Vice Chairman Daniels thinks if Mr.
48 McKinney is going to ask for an extension he would have come to the Board before tonight. Selectman Putnam
49 suggested just extending it 30 days. Selectman Putnam moved to extend the deadline for the engineering on the
50 foundation on businesses along the river from December 31, 2009 to January 31, 2010. Selectman Bauer seconded.
51 All were in favor. Motion passed 5/0.
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53 **b) OTHER ITEMS (that are not on the agenda).**

54
55 **8. APPROVAL OF FINAL MINUTES -November 30, and December 14, 2009.**

56 A motion was made by Selectman Putnam and seconded Vice Chairman Daniels to approve the minutes of Novem-
57 ber 30, 2009 as presented. All were in favor of approval. Motion passed 5/0.

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1 A motion was made by Vice Chairman Daniels to approve the minutes of December 14, 2009 as presented. Select-
2 man Bauer seconded for discussion. Chairman Finan requested that on page 3, line 38 it be changed from "Class VI
3 highway" to "Class V highway". Selectman Bauer requested that on Page 3, line 55, it be changed to "Chairperson
4 Anne Edwards-Parker." Vice Chairman Daniels, Selectman Bauer, Selectman Carmen and Chairman Finan were in
5 favor of approval as amended, with Selectman Putnam abstaining. Motion passed 4/0/1.
6

7 **9. INFORMATION ITEMS REQUIRING NO DECISIONS**

8
9 **10. NON-PUBLIC SESSION – Non-public Session (RSA 91-A:3, II (e) Legal and Approval of Non-public**
10 **Minutes (RSA 91-A:3, II (d & e) Land Acquisition & Legal – December 14, 2009.** Selectman Putnam moved to
11 enter into non-public session at 8:00 p.m. to approve non-public minutes of December 14, 2009 and discuss a Land
12 Acquisition & Legal issue. Vice Chairman Daniels seconded. All were in favor. Motion passed 5/0.
13

14 Vice Chairman Daniels moved to unseal the non-public minutes of December 14, 2009. Selectman Bauer seconded.
15 All were in favor. Motion passed 4/0/1 with Selectman Putnam abstaining.
16

17 Vice Chairman Daniels moved to approve the non-public minutes of December 14, 2009 as presented. Selectman
18 Carmen seconded. All were in favor with Selectman Putnam abstaining. Motion passed 4/0/1.
19

20 Vice Chairman Daniels moved to re-seal the non-public minutes of December 14, 2009. Selectman Carmen
21 seconded. All were in favor with Selectman Putnam abstaining. Motion passed 4/0/1.
22

23 After the approval of non-public minutes of December 14, 2009, there was discussion of a land acquisition and legal
24 matter after which Selectman Bauer moved to come out of non-public session at 8:35 p.m. Vice Chairman Daniels
25 seconded. All were in favor. Motion passed 5/0.
26

27 Chairman Finan announced that in non-public session, the non-public minutes of December 14, 2009 were ap-
28 proved. The Board then discussed land acquisition and legal matters with one decision of the acceptance of a BTLA
29 settlement.
30

31 **11. ADJOURNMENT:**

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33 There being no further business to come before this Meeting, Selectman Bauer moved to adjourn at 8:40 p.m. Vice
34 Chairman Daniels seconded. All were in favor. Motion passed 5/0.
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38 _____
39 Tim Finan, Chairman

Gary L. Daniels, Vice Chairman

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42 _____
43 Katherine Bauer, Member

Nate Carmen, Member

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47 Mike Putnam, Member