

APPROVED
MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING
February 26, 2018

PRESENT: Mark Fougere, Chairman
Kevin Federico, Vice Chairman
Gary Daniels, Member
Mike Putnam, Member - excused
Laura Dudziak, Member - excused
Mark Bender, Town Administrator
Tina Philbrick, Recording Secretary
Hazen Soucy, Videographer

1. CALL TO ORDER, BOARD OF SELECTMEN INTRODUCTIONS & PUBLIC SPEAKING INSTRUCTIONS: Chairman Fougere called the public meeting to order at 5:30 p.m., introduced Board members and then led the audience in the Pledge of Allegiance. Chairman Fougere indicated 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: (Approximate times)

- 5:30 p.m. – Public Hearing for KENO – NH RSA 284:41 through 51 as directed by the Secretary of State.

Chairman Fougere said that we are obligated to hold a public hearing prior to the official vote that will be on the ballot in two weeks. Chairman Fougere asked for comments or questions from the Board. There were none. Chairman Fougere opened the public hearing, no one had questions. Chairman Fougere closed the public hearing.

Because the appointments were running ahead of schedule, Chairman Fougere moved on to Public Comments.

- 5:45 p.m. – 1st Public Hearing to adopt a new chapter of the Milford Municipal Code, entitled Title 5 Health & Safety, Chapter 5:33 Fletcher Paint Superfund Groundwater Management Zone pursuant of NH RSA 147:1.

Chairman Fougere opened the public hearing. We were finally able to complete the cleanup and restore the entrance to Keyes and Cottage Street and now the EPA and DES have requested that we implement this Groundwater Management Zone to restrict any withdrawals of groundwater because of the contamination in that area.

Lincoln Daley, Community Development Director summarized the topic. The purpose of this ordinance is to protect the public health and meet the requirements of New Hampshire's ground water protection act and associated administrative rules. The Groundwater Management Zone is an area within which ground water use must be controlled and or monitored due to contamination per state standards. The zone consists of thirty-six (36) properties. The purpose is to prohibit the use of any ground water for any purpose without prior approval from the Town, US-EPA and the NH-DES. Properties within the zoned area can't use their wells for portable use and/or irrigation. The ordinance will remain in effect until such time as the ground water is restored to drinking water quality. Chairman Fougere asked if the property owners were notified. Lincoln said yes. There are 6 properties that are not on town water. A majority are undeveloped properties with the exception of Map 25-77 owned by the Big Barn LLC which is a warehouse. The properties around the Fletcher site Map 25-13 and 25-1-1 are owned by the town along with the property next to the rail road, Map 25-111. The other three properties Map 25-110, Map 25-114, (owned by the American Legion and is currently their parking lot), and Map 25-64 are privately owned. Chairman Fougere asked if the Board had any questions. Selectman Daniels asked why we were including all of Keyes Field. Lincoln said Keyes Field is included because it falls into the GMZ zone. Chairman Fougere said its most likely included in the zone because they don't want the town to use the well located on the property. He is happy to see that the new property on 127 Elm Street is not part of the zone. Selectman Daniels asked what's being used to irrigate Keyes Field now. Lincoln said town water. Chairman Fougere opened the public hearing, no one had any questions. Chairman Fougere closed the public hearing. The next public hearing will be on March 12, 2018 at 5:30. The Board thanked Lincoln for coming in.

- 6:00 p.m. – Request to appoint Kathy Fay-Clancy as a full member of the Recycling Committee. Chairman Fougere asked Kathy to tell them about herself. Kathy said that she is a mother of 4 and a homeowner for 5 years. She is starting to look at getting back into society. She saw that they were looking for help and she has the time. She sees a need to increase awareness about recycling and educating kids as well. Selectmen Daniels said that Kathy has been to several recycling meetings and he thinks that she will be a good asset to the committee. They still have some open spots if anyone else is interested. Selectman Federico said that they are always happy to have people volunteer. Administrator Bender agreed. Selectman Federico made a motion to approve Kathy as a full member of the Recycling Committee. Selectman Daniels seconded. All were in favor. The motion passed 3/0. The Board thanked Kathy for coming in.

3. PUBLIC COMMENTS. (Items not on the agenda).

Chairman Fougere asked if there was anyone in the audience who would like to speak about any items not on the agenda. No one came forward.

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1 As the meeting was wrapping up, Suzanne Fournier, Brox Environmental Citizens asked if she could speak. Chairman
2 Fougere graciously agreed. Suzanne came in to talk about the towns handling or mishandling of the procurement of the
3 Perry Road Bridge road rating study. She showed a map of the road from Tom Lorden's property, (Tom is proposing a
4 gravel operation on his property) to the Perry Road Bridge and from the Towns Community Lands to the Bridge. The town
5 has a procurement policy for selection of engineering firms it wasn't followed for this project. The policy calls for the
6 Town to seek at least 3 proposals. The Town didn't seek any even though this is a town bridge. The Town was not in
7 charge of the proposals but instead played an advisory role for this enterprise. The private enterprise headed by Tom Lor-
8 den, along with Leighton White Inc. and FieldStone Land Consultant initiated the bridge study. They sent out and received
9 proposals. They invited the town to weigh in on the decision making. Suzanne feels that the private enterprise was in
10 charge of important steps that involved the study, and it should have been the Town's responsibility. As far as financials,
11 Suzanne said that the town made the commitment to pay the \$4,000 for the study. DPW signed the contract and sent Hoyle
12 and Tanner the Purchase Order. Suzanne said that the Administrator Bender said that Leighton White Inc. and NorthEast
13 Sand and Gravel would be reimbursing the town for the \$4,000. She asked how it would be paid back and implied that it
14 could possibly be paid back by Leighton White Inc. making a donation. She also asked how NorthEast Sand and Gravel
15 would pay their share back. She also pointed out that Dale White, the president of Leighton White Inc. is also a public offi-
16 cial at the Water Utilities department. He is a Water & Wastewater Commissioner for the Town. Mr. White also offered to
17 contribute \$1,000 to the bridge study/approval. Suzanne is questioning the word "approval". She wants to know what "ap-
18 proval" Mr. White is referring to. She asked the Board to investigate why the Town's Procurement Policy was not fol-
19 lowed, why a private enterprise is allowed to do what should have been done by the town and how the town will be reim-
20 bursed, if it's even proper in this investigation. She asked the Board how they will proceed. Chairman Fougere asked Ad-
21 ministrator Bender to provide the highlights of that process.

22
23 Administrator Bender said that he was very upfront about presenting this project to Suzanne. There is no conspiracy.
24 Leighton White and North East Sand and Gravel will be the two contractors involved in the gravel project. The town was
25 approached about doing a structural analysis on the Perry Road Bridge. Both parties agreed to fund the analysis so there
26 would be no cost to the town. It was a verbal agreement. Both parties are honorable and he has no doubt that NorthEast
27 Sand and Gravel will make payment to the town for \$2,500 and Leighton White will pay the remaining \$1,500. He guaran-
28 tees tonight that one of three things will happen. 1st and most likely, we will receive the checks from both parties, and he
29 will be happy to report the payment to the Board and the public. 2nd and 3rd are related because he will stake his personal
30 reputation on it. If one or both don't pay, either he will pay it or he will resign. He is that confident in trusting people that
31 are honorable and doing the right thing. There is no reason for taxpayers to pay for this bill. The only reason we went with
32 a Purchase Order is because it's a town bridge and when we started this process he wanted assurance that whatever study
33 was done would be satisfactory to the New Hampshire DOT, and it was and Suzanne was told this. They met all the re-
34 quirements for the town. He believes that we have done a good job in maintaining the fiduciary relationship for the town
35 and protecting the town so that this will have no cost to the taxpayers.

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37 Chairman Fougere said that Hoyle Tanner is an independent engineering firm that has done work for the town in the past.
38 There was a rating on the bridge which was arbitrary, there was no analysis done on it. The state decided because of the
39 design to put the label on the bridge. Gravel trucks are large and we wanted to make sure the bridge could handle it. He
40 told Suzanne that the reason she was looking into it was quite clear because she wants to stop the removal of gravel from
41 the pit and she is attacking the voter's choice to move forward with the proposal and she has been fighting this since the
42 beginning. He noted that Suzanne sued the community along with other people to stop the operation. He asked Suzanne to
43 stop interrupting during his conversation. Suzanne said that she is asking for an investigation and Chairman Fougere was
44 attacking her. Chairman Fougere said the bottom line is that she is trying to stop the removal of gravel.

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46 Suzanne asked if anyone on the Board has any personal business relationship or friendship with any of the principals in-
47 volved in this private enterprise. She named Tom Lorden, Leighton White and Fieldstone engineering then for recusal and
48 discussion.

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50 Selectmen Federico intervened by saying that he doesn't have a personal relationship with any of the private enterprise. He
51 is offended by Suzanne's insinuation that there is anything inappropriate here. Suzanne interrupted and Selectmen Federico
52 asked her to stop and listen so he could explain. He said that when this first came to this Board it was a simple, "there is a
53 study that needs to be done", and we don't want to pay for it. Suzanne interrupted and said that she didn't recall it being in
54 public. Selectman Federico said he didn't recall when it was and he wasn't going to let Suzanne pin him to a time. He said
55 that he wasn't going to sit here and let her accuse him, because she just said anyone on this Board and he doesn't have
56 them. Chairman Fougere again asked Suzanne to stop interrupting and let Selectmen Federico talk. Selectman Federico
57 said that if Suzanne wants to stand in opposition of town vote and of decisions that were made, that's fine he has no prob-
58 lem with that. He has no problem with debating issues all day long when the time allows. In his opinion her question was

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an accusation. He then asked Suzanne to stop trying to speed him up because she kept waving her hand. It was an accusation and he finds it offensive.

Suzanne asked what exactly was the accusation that he found offensive. Selectman Federico said pointing at the Board and asking if any of them have some form of relationship with the parties involved. Suzanne said if there was anyone then they would have to be recused. Selectmen Federico said that was his opinion and all he was going to say about it. Suzanne said that in response to what Administrator Bender said, he did not address the procurement policy that was not followed. He addressed a lot about the money, he's sure he's going to get the money, but it's the procurement policy that was not followed. Administrator Bender said that they did not hire the firm so they didn't have to get 3 proposals. A private company doing this type of study does not have to follow the town's procurement policy; they have their own procurement policy that they follow. Suzanne said Town Bridge, we paid, and we did the purchase order. Administrator Bender said we paid and we are being reimbursed. Suzanne said this is why she is asking for an investigation from this Board and to the public. She handed out a list of things related to the Perry Road study that she used as a basis for her comments and wants the Board to use it as the basis for their review. Chairman Fougere thanked her for coming in.

4. DECISIONS.

- a) **CONSENT CALENDAR.** Chairman Fougere asked if there were any items to be removed from the Consent Calendar for discussion. There were no items removed for discussion. Selectman Federico moved to approve the Consent Calendar as presented. Selectman Daniels seconded. All were in favor. Motion passed 3/0.

- 1) Request Approval to re-appoint Jason Plourde and Dave Wheeler as Full Members to the Traffic Safety Committee.

- b) **OTHER DECISIONS.**

- 1). N/A

5. TOWN STATUS REPORT

- 1) **Town Roads & Streets** – Administrator Bender mentioned an article he read that the city of Indianapolis has declared a state of emergency for potholes. They are blaming major fluctuations in temperatures due to various freeze and thaw cycles. Driving around Southern New Hampshire you see the same conditions and our town roads and streets have also taken a beating this winter. The freeze/thaw cycles combined with extreme temperature swings from very low to record highs have been brutal. We are filling potholes as quickly as possible. We used 18 tons of materials just in the month of February. We encourage residents to report potholes and deteriorated road conditions to Public Works at 673-1662 or by email to mdickson@milford.nh.gov or on the DPW section of the town website. We will be evaluating overall road conditions and our 2018 paving/reconstruction plan over the next 4-6 weeks. The town's input is very important to us.
- 2) The Voters Guide will be out on Thursday, March 1st in the Milford Cabinet. We will also have copies available at the Town Hall, Library, Middle School and High School. In addition to the hardcopies, a link to the Milford Full Voters Guide can be found on the Town website and on the Milford Cabinet website under the "most read" second. Chairman Fougere said that most people are used to getting it in the mail, unfortunately, the telegraph isn't doing it this year. Selectman Federico said that they would also do a slide show on Granite Town Media.

6. DISCUSSIONS

- 1) There were no discussions for this meeting.

7. SELECTMEN'S REPORTS/DISCUSSIONS.

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

Selectmen Federico said that Granite Town Media is working on a date in late April or early May for Comcast public input and he would like to attach it to one of the future Board meetings. It will be to renegotiate the contract. No specifics are available yet.

Selectman Daniels said that they elected Rob Canty as the Chair of the Recycling Committee, Jerry Guthrie is the Vice Chair and Celeste Barr is the Secretary.

Selectman Daniels said that the DMV is planning to move to the temporary location on March 1st and they would like to open at the latest on March 14th or earlier. The Department of Safety said that they would like to start raising the old building around mid-March to make way for the new Court. The DMV will be open during the transition period. Chairman Fougere said that the DMV is moving to the old Police Station on Elm Street for a couple of years. Selectman Daniels said that once the DMV is out of the old PD, it will be used as a technology center. Administrator Bender

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said he visited the facility on Friday and it looks good, the transformation is amazing. The old part hasn't been renovated, but the new part looks good.

Chairman Fougere clarified a decision that the Board made a few weeks ago to extend the contract for NorthEast Sand and Gravel. The removal of sand and gravel has been a very controversial project in town. Voters approved removal of the gravel after 3 or 4 years of trying to get it approved at town meeting. It was successful in March of 2016. The contract was signed with NorthEast in June after receiving several bids. A good plan was in place to include engineering plans, surveys and input from Conservation and the Planning Board. DES was involved in the AoT process and NH Fish and Game for the delicate species issue that we've heard about numerous times. We had many discussions with state officials at Fish and Game about doing an analysis on the entire 280 acres. These meetings cause a significant amount of delays. We were planning to cut trees a year ago at this time but it was halted by Fish and Game through a letter from one of the officials wanting us to wait until later in the year. The approval of the project was finally obtained from DES and Fish and Game late summer, early fall. At that time there was a lawsuit filed to stop it, to include a temporary restraining order issued by the court which delayed the project for three weeks. We hired an attorney to fight the restraining order which cost the town over \$10,000 in legal fees. NorthEast Sand and Gravel also hired an attorney to fight it and luckily we were successful and were able to get the silt fence in before hibernation season started for the turtles. Ms. Fournier and her associates have continued to fight and try to delay this project. The AoT permit is in appeal at the state. Fortunately the Attorney General's office is defending DES decision on the permit. We will be pulled back in by staff at a minimum. To date NorthEast has spent close to \$100,000 of their own money, including legal and engineering fees and the first installment of a study that the Fish and Game asked us to participate in. The cost is for a 3 year study of the entire community and industrial lands. The record cold snap has also delayed the start. We have been prepping and getting the road in shape and working on requirements for the permit to be in place, to include the crossing bridge for the critters to walk through. The work will be starting very soon. There has been a long history with this project that has been going on for many years. NorthEast Sand and Gravel has stuck with the Board and town and hasn't faulted in their commitment to move forward and we appreciate that which is why we extended their contract.

b) OTHER ITEMS (that are not on the agenda). N/A

8. APPROVAL OF FINAL MINUTES. Selectman Daniels moved to approve the minutes of February 12, 2018. Selectman Federico seconded. All were in favor. Motion passed 3/0.

9. INFORMATION ITEMS REQUIRING NO DECISIONS.

10. NOTICES. Notices were read by Chairman Fougere.

11. NON-PUBLIC SESSION. Chairman Fougere moved to enter into non-public meeting for Approval of Non-Public Minutes (RSA 91-A:3, II(a)) – Personnel January 29, 2018, February 12, 2018 and February 21, 2018. Selectman Federico seconded. All were in favor. The motion passed 3/0.

12. ADJOURNMENT: Selectman Daniels moved to adjourn at 6:13 p.m. Selectman Federico seconded. All were in favor. Motion passed 3/0.

Mark Fougere, Chairman

Kevin Federico, Vice Chairman

Gary Daniels, Member

Excused
Laura Dudziak, Member

Excused
Mike Putnam, Member