

APPROVED
MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING

August 17, 2020

This meeting was conducted pursuant to the State of New Hampshire Emergency Order #12 pursuant to Executive Order 2020-04, temporary modification of public access to meetings under RSA 91-A. As such, the meeting was conducted online using these connection instructions that were listed on the posted meeting agenda: "The Public is encouraged to participate remotely, call in on your phone @ 1-646-558-8656 and enter the meeting ID# 886 4952 4624 and the password is 983403, or join the Zoom Meeting @ <https://zoom.us/j/88649524624>. Please try to log in 5 minutes before the meeting's scheduled start time in case you run into any technical difficulties".

PRESENT: Gary Daniels, Chairman John Shannon, Town Administrator
Paul Dargie, Vice Chairman Andrew Kouropoulos, Videographer
Laura Dudziak, Member
Chris Labonte, Member
David Freel, Member

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

Chairman Daniels declared that an emergency exists and he was invoking the provisions of RSA 91-A: 2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to the community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, he also finds that this meeting is imperative to the continued operation of Town government and services, which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted with members participating via Zoom. Information for accessing this meeting can be found on the Town web site in the red banner.

Chairman Daniels welcomed members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply. Public comments will be limited to three to five minutes per person. Any person found to be disrupting this meeting will be asked to cease the disruption. If the disruptive behavior continues thereafter, that person will be removed from the meeting.

All votes that are taken during this meeting must be done by Roll Call vote. Members who called in from home were asked to state their name and state whether there was anyone in the room with them during this meeting, which is required under the Right-to-Know law.

Roll call attendance: Paul Dargie, yes, no one is present. Selectman Dudziak, yes, no one is present. Selectman Labonte yes, no one present, Selectman Freel, yes, no one present, and Chairman Daniels, yes, no one present.

2. APPOINTMENTS: (Approximate times)

5:30 p.m. – Emergency Order #63 vs. Labor Day Parade – Brendon Philbrick and Jay Duffy

In summary: On August 11, 2020, Governor Christopher Sununu issued Emergency Order #63 requiring face coverings for certain scheduled gatherings of 100 or more individuals. It reads:

1. Face coverings shall be required for all persons who attend or are otherwise present at the following activities that take place within the State of New Hampshire.

Scheduled gatherings of 100 people or more for social, spiritual, and recreational activities, including, but not limited to, community, civic, public, leisure, faith-based, political, or sporting events; parades; concerts; festivals; conventions; fundraisers; and similar activities; where individuals are gathered in the same place at the same time.
2. The requirements of Paragraph I shall not apply to the following:
 - a. Scheduled gatherings where attendees are seated and separated by at least 6 feet from any person except those that are (i) a member of that person's household, or (ii) part of that person's party, or, (iii) assigned to that person's table. For scheduled gatherings subject to this exception provision, attendees must wear face coverings while entering and exiting the gathering and while moving to and from their seats.
 - b. Day-to-day operations of for-profit or not for profit organizations and State and local governments, including K-12 schools, where 100 or more people may be present in a facility.
 - c. Children under the age of 2.
3. Events, activities, or individuals that are covered by Paragraph I shall continue to comply with any applicable guidance issued pursuant to Emergency Order 52, as extended by Emergency Order #61.
4. Any entity, property owner, facility owner, or person that organizes or allows its property/facility to be used for a scheduled gathering of 100 or more people shall make reasonable efforts to ensure compliance with this Order. It

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shall constitute a violation of this Order if any such entity, property owner, facility owner, or person (a) knowingly violates this Order, or (b) refuses to comply with a prior warning about the requirements set forth in this Order.

5. The Division of Public Health and State or local police shall have the authority to enforce this Order.

6.

Mike Viola, Chief of Police, Milford said the biggest issue will be enforcement. People in a crowd not wearing masks will be in violation. We don't have the personnel because our main concern is traffic. If someone complains, officers will have to follow up, issue violations, and follow-up with the Attorney General's office. The parade organizers are the ones liable for the complaints. They would need more people to make sure the community is safe. It's no-win situation enforcement wise.

Ken Flaherty, Fire Chief, Milford said he spoke with the Attorney General's office; they won't take a stance for or against the parade because they want to leave it up to the Municipalities. They did stress that everyone in the parade, bands, on the floats, would also have to wear masks. The organizers of the parade would have to make sure everyone attending the parade was informed about wearing a mask or is provided with a PPE mask. Since school is opening the same week as the parade and this event could draw between 20,000 to 30,000, people could hurt that process for the children of our community because large gatherings increase the chances of introducing COVID-19 to the community.

Chief Viola said he checked with other departments in the state and most events in their communities have been canceled. There was one place that is still having their Old Homes Day, but they will mandate masks and hand sanitizer and won't have the volume of people that we will have. We have the potential of having thousands of people in our Oval.

Jay Duffy, the Parade Coordinator, said they don't want a pandemic in Milford. He is respectful of the emergency services concerns. The pool has been open for a few weeks; the band concerts have been well attended and he feels that the parade should go on. People can socially distance and we are not giving the townspeople enough credit to take care of themselves. People who don't want to attend, won't attend. He pointed out places that people could spread apart.

Administrator Shannon said day to day operations are exempt from this order. The pool is well below 100 people on any given day. We are taking precautions to make sure people are separated so those comparisons are not the same as a few thousand people. He agrees that the people in Milford are smart and know what they are doing, but this isn't just a Milford only event. You can't speak to people from other cities and towns.

Jay Duffy believes that people will wear their masks and the webcam is available for people who want to say home. We need to give people credit that they will participate safely. The Governor did decline coming to the parade. Jay thinks the Governor's order is based on motorcycle week and a religious outing going on in New Ipswich.

Chairman Daniels agrees that Milford has done a good job; there are only four active cases right now. The oval does get congested and he is concerned about the staging area especially with national candidates running. He asked Jay how they would handle that because it's a main congregating area before the parade starts. Jay said Brenden, Sarah, and Lisa put the candidates by the chain at the high school. It would be a matter of consistently verbalizing social distancing. Dave Alcox will be on the oval doing the same thing. He thinks people will listen.

Brendon Philbrick, the Parade Coordinator, said he had reservations after the meeting on Wednesday then he went to the beach with his 6-year-old. Every day at the beach has a "parade". No one wears masks at the beach. The police at the beach don't wear masks. Many people from other states were also there. The only people wearing masks at the restaurants at the beach were waitresses. He told the Board that they need to get out of the closets and bubbles in Milford and go see what is going on elsewhere.

He questioned the language in the Governor's order. He doesn't care what the "Little" Attorney General said; if they were so strong against the parade they would have said so. He wants to take a video at Hampton Beach to show it to the Board. He challenged the Board to go to the beach and see what is going on. He offered to pay for them to go as well. The political people can social distance while they are staging. This is an outdoor event. The band and people on the float are part of a group so they are exempt. He read more of the executive order.

Administrator Shannon said the order specifically mentioned scheduled gatherings. People wandering around Hampton Blvd. is not a scheduled gathering. The order also specifically mentions parades in paragraph I. Just because someone doesn't agree with the Governor's Emergency order doesn't mean that you are not legally responsible for following the order. The Attorney General told us to follow the emergency order or there will be consequences. If Mr. Philbrick doesn't

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feel that the emergency order is valid or applies then it doesn't give Mr. Shannon a warm and fuzzy that he will attempt to comply with the rules that are required to be followed. He asked if the parade committee has PPE that they can supply to people who don't have it.

Brendon said Chairman Daniels is running this meeting and he asks for questions or comments from the Board and then the public but the Town Administrator acts like he is running the meeting and he's been doing it for weeks. He heavily lobbied departments to be against this as well as Selectman Dargie who came out and tried to cancel stuff as a knee jerk reaction back in May. Chairman Daniels instructed Brendon to address his comments to the Chair.

Chief Viola said he talked to the Hampton Chief and they don't sanction parades. Chairman Daniels asked if the VFW Commander know that the liability will fall with the VFW if something goes wrong? Jay said the VFW is no longer running the parade. The Milford Labor Day Parade Committee organizes the parade under the umbrella of the town. That is why they came to the town when the scandal was going on at the VFW. The parade is run by the Town of Milford so the Town of Milford would assume all liability.

Selectman Freel asked if anyone from the town reached out to the counsel to find out that if there was a parade and if someone were to be infected could the town be sued? Paul Calabria, Finance Director, spoke to Primex, the town's insurer, and they informed us that we would be liable for any claim brought forth by a resident should something happen at the parade where people are not following protocol. We would have to have the manpower to provide PPE to every person there to protect the town's liability. If a claim were to come forward it would be on us to prove that we provided PPE and enforced all the social distancing protocols and that we moved quickly if we noticed anyone not following the guidelines. We could have a lawsuit filed against us and it would be up to the courts as to how far it would go.

Doug Whitney, Milford Resident, agreed that they would have to make sure everyone wore a mask including people participating in the parade. This is one of the reasons that the Pumpkin Festival was canceled because we can't handle the requirements safely. He is in favor of having a parade but the responsibility goes to the organizers to make sure they comply.

Chairman Daniels said he heard about a \$1,000 fine per violation, and asked if anyone could speak to that. Brendon Philbrick repeated that Hampton Beach has an unofficial parade every day. No one enforces any rules there. He saw about three people out of 10,000 who wore masks. This was after the order came out. No one enforced the mask rule. People are overreacting. He would like to come back to the meeting next Monday with footage about Hampton Beach so all of you can see what he's talking about.

Chairman Daniels said regardless of what is happening in Hampton, we know that an executive order has been put in place. He asked Brendon if he was suggesting that our Police Department should willfully neglect the order of the Governor. Brendon said people are overreacting and taking this too seriously. There are four active cases in Milford and he presumes they are in the nursing home. He thinks it's foolish to cancel the Pumpkin Festival and the Parade. He repeated that he will have a video for next week's meeting.

Doug Whitney said that Brendon doesn't understand what they are trying to decide here and the fact that they have to provide PPE. He doesn't think that the organization is capable enough for this event to be held.

Chief Viola, said Mr. Philbrick said it's an unsanctioned event, (meaning Hampton) and maybe the town doesn't have liability but in our situation, it is a sanctioned event and the town would take on the liability. The Governors' order puts the enforcement on the Police Department. If we did have an outbreak, the reputation of Milford would be hit hard. He doesn't want to put our officers or people in a situation where we are going to look bad if something happens. We have to enforce this and if we don't he is sure someone will contact the Town Administrator or the Board with a complaint.

Selectman Freel said we took the time to schedule this meeting and he doesn't want to postpone the vote until the next meeting.

Selectman Dargie said emergency order 65 has the various penalties and fines associated with different things. He doesn't feel that we can comply with emergency order 63. There will be people who won't wear masks under any condition. We will be relying on the Police to confront them and that puts them in an unfair position. We would need more personnel to help manage this. Band members can't wear a mask and play instruments. Brendon interrupted again and said bands are exempt. Selectman Dargie said no they are not, and asked Brendon to not interrupt people when they are speaking. He feels we should cancel the parade due to the mask requirement.

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Chief Flaherty said he doesn't think it's good to have this event in our community. People don't understand that he and Captain Smedick are not only firefighters, but they are also the Health Enforcement Officers of the community. This is from the health side of things, the fire side doesn't have any rules on this.

Selectman Dargie made a motion to cancel the parade for 2020. Seconded by Selectman Dudziak. Selectman Freel asked if there was something else that the VFW can do that doesn't fall under the umbrella of the town so the town wouldn't be liable. We didn't have a say in the Black Lives Matter event last month. Chairman Daniels said the VFW isn't organizing this; it's the Town of Milford. Any organization that decides to do something contrary to the Governors Executive Order 63 would take on that liability. The protest was before executive order 63 coming out.

Selectman Dargie said Hampton Beach is an example of why the parade shouldn't go on. It shows that people are ignoring masks requirements and not following protocol and that is what may happen in Milford, there would be significant violations of mask order. Selectman Freel said he would like to have the parade but with the school system doing hybrid, it compromises the students.

Selectman Labonte would like to see the parade. You can ask people to follow the guidelines. He isn't a believer in predicting who is going to follow rules or not. We need to look at every event in town that would fit this criteria going forward.

Chairman Daniels said that is what has been done this entire time. Selectman Labonte asked how will we be approaching Wednesday night band concerts, is the Police Department going to enforce that too. Chief Viola said if they received a call, they would enforce the Governor's order. It would be no different than if you decided to do the parade, we will do our duty.

A roll call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte no, Selectman Freel yes, and Chairman Daniels yes. The motion passed 4/1 with Selectman Labonte opposed.

3. PUBLIC COMMENTS – Claire Brewer, Milford resident, is disappointed that the meeting wasn't broadcasted on channel 21. Doug Whitney said he advocated against the parade because the organizer of the event needs to understand the importance of providing PPE to parade participants. You have to be confident in the people who are running events and Mr. Philbrick didn't communicate in a manner that he was confident in. This is why the Granite Town Festivities Committee went virtual with the Pumpkin Festival as it would not have been appropriate to ask everyone to mask up.

Selectman Labonte asked why tonight's meeting wasn't televised. Chairman Daniels said he did not know. Chris Gentry, Community Media Director, said he's looking into it as we speak. He believes the stream was overridden by the track for the School Board Meeting. Administrator Shannon said it is being recorded and it will be re-played.

4. DECISIONS – CONSENT CALENDAR.

1. N/A

b) OTHER DECISIONS.

2. N/A

5. TOWN STATUS REPORT – N/A

6. DISCUSSIONS: - N/A

7. PUBLIC COMMENTS: -

8. SELECTMEN'S REPORTS/DISCUSSIONS.

a. FROM PROJECTS, SPECIAL BOARDS, COMMISSIONS & COMMITTEES.

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

Administrator Shannon said Osgood Pond Phase II has been completed; the town has gotten what they paid for. The contractor has the equipment for a couple more days and he will do some extra work for the town pro bono. The contractor wanted to know if he could have around 500 cubic yards for another site and that requires the Board's permission.

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Selectman Dargie made a motion to allow them to take up to 1000 cubic yards of spoils from Osgood Pond. Chairman Daniels said by “them” does he mean anyone”? Selectman Dargie said we want them to take as much as they can and additional dredging is a good thing. Chairman Daniels asked why Selectman Dargie would want to limit it to 1000 if it’s being done for nothing. Selectman Dargie said he will take the limit off.

Selectman Dargie made a motion to allow Mathewson to continue dredging at no cost to the town and to deposit the materials at an alternate site. Seconded by Selectman Dudziak.

Selectman Labonte asked if we now start a lineup of anyone who wants the dredging’s for free from the Town of Milford. Chairman Daniels said yes. Administrator Shannon said the Town is still getting some of the spoils; the contractor just wanted 500 cubic yards for fill. The contractor only has the rental equipment for a couple more days. We haven’t had anyone else ask for any of the spoils.

Chairman Daniels said for clarification, taking the spoils would be on a first come first serve basis until such time that Mathewson says that they are no longer digging. This will be free. He doesn’t know if the people are using their vehicles or if Mathewson is using their trucks.

Administrator Shannon said for clarification he doesn’t know if it is free of charge, but the town isn’t charging anything. He doesn’t know if whoever wants the spoils has to work something out with Mathewson for hauling. Selectman Dargie said they will have to be compliant with all of our permits. Chairman Daniels said yes.

The motion is to allow Mathewson to further excavate the pond at no cost to the town until such time that Mathewson decides that they can’t do it anymore. Administrator Shannon asked if we could make it more specific to the end of this week. Selectman Dargie said he doesn’t know why we would want to stop them from more dredging. We didn’t excavate as much as we planned on so if they want to go a couple more weeks he’s in favor of it. Selectman Labonte and Chairman Daniels agreed.

A roll call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte yes, Selectman Freel yes, and Chairman Daniels yes. The motion passed 5/0.

9. APPROVAL OF FINAL MINUTES – N/A

10. INFORMATION ITEMS REQUIRING NO DECISIONS. – N/A

11. NOTICES. Notices were read. Administrator Shannon announced that the Town Hall is opened regular hours Tuesdays and Thursdays however the Town Clerk is not. She will be going to an online appointment system. They will still be using the drop boxes and appointments.

Selectman Freel asked when the Town Clerk will be opening full-time. Administrator Shannon said he’s working with her. The appointment system she is going to will help better control crowds. She will be able to schedule appointments throughout the day. It will be similar to what was used by Recreation to reserve pods.

12. NON-PUBLIC SESSION.

13. ADJOURNMENT: Selectman Dudziak moved to adjourn at 7:05. Seconded by Selectman Freel. A roll call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte yes, Selectman Freel yes, and Chairman Daniels yes. All were in favor. The motion passed 5/0.

Gary Daniels, Chairman

Chris Labonte, Member

Paul Dargie, Vice Chairman

David Freel, Member

Laura Dudziak, Member