

APPROVED  
MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING

February 8, 2021

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# 885 2406 5826 and the password is 394988 or join the Zoom Meeting @ <https://zoom.us/j/88524065826>. Please try to log in 5 minutes before the meeting's scheduled start time in case you run into any technical difficulties".

<b>PRESENT:</b>	Gary Daniels, Chairman (Zoom)	John Shannon, Town Administrator (Zoom)
	Paul Dargie, Vice Chairman (Zoom)	Tina Philbrick, Executive Assistant (Zoom)
	Laura Dudziak, Member (Zoom)	
	Chris Labonte, Member (Zoom)	
	David Freel, Member (Zoom)	

**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 without a quorum of this body physically present in the same location. 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 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: Selectman Dargie, yes, (zoom) no one is present. Selectman Dudziak, yes (zoom) Daughter Molly is in and out. Selectman Labonte yes, present in the BOS room, Selectman Freel, was not present yet, and Chairman Daniels yes, (zoom) no one is present.**

**2. APPOINTMENTS: (Approximate times)**

**5:30 p.m. – Appointment of Josh Breault to the Granite Town Media Advisory Committee – Term Expires 2024**

Josh is a lifelong resident of Milford NH who cares deeply about this town and providing easier access to vital information to everyone. During this pandemic, GTM has provided critical coverage to town and school meetings that have allowed residents to remain engaged with the discussions and decisions being made that impact their daily lives. He feels that his voice and skills will help GTM meet the needs of the town.

**Selectman Labonte made a motion to appoint Josh Breault as a Full Member of the Granite Town Media Advisory Committee. Seconded by Selectman Dargie. 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.**

**5:35 p.m. – Melendy Land Purchase Approval, Map 52 Lot 4-1 – Chris Costantino, Conservation Commission and Andy Hughes, Conservation Chair.**

The Milford Conservation Commission (MCC) has the opportunity and the funding to purchase Map 52 Lot 4-1, which is a 2½ acre parcel abutting the Granite Town Rail Trail. The Milford Conservation Commission voted to use Conservation Land Funds to purchase this property in February 2019. There has been no change to this decision while we awaited the finalization of the contract by the sellers.

Selectman Freel asked how much money was in the Land fund and how much will they be paying for the 2.5 acres. Chris said they have around \$99,000 in the land fund. Andy said the land value is \$13,000. Selectman Freel asked how the money is acquired in the land fund. Andy said it comes from warrant articles on town vote. We didn't ask for a warrant article this year.

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63 **Selectman Dargie made a motion to authorize the Conservation Commission to purchase Map 52 Lot 4-1. Seconded**  
64 **by Selectman Dudziak.**

65  
66 Chairman Daniels asked how much land in the town is currently in conservation. Andy said about 1,100 acres and the town  
67 is around 15,000 acres, around 7 % to 8%. Chairman Daniels asked if there was a cap on how much of the town should be  
68 conservation land. Andy said it varies but he doesn't know. Chris said she thinks it's around 30% that should be protected.  
69 Some of the land that is in conservation is protected in one form or another like an easement. Some are owned by the land-  
70 owner not the town and they pay taxes on it because it's still in current use.

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72 **A Roll Call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte yes, Selectman**  
73 **Freel yes, and Chairman Daniels yes. All were in favor. The motion passed 5/0.**

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75 **5:50 p.m. – BROX Community Land Conservation Easement – Conservation Chair, Andy Hughes and Conserva-**  
76 **tion Member, Chris Costantino.**

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78 **Selectman Dudziak made a motion to take the BROX Community Land Conservation Easement off the table. Se-**  
79 **conded by Selectman Dargie. A Roll Call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Select-**  
80 **man Labonte yes, Selectman Freel yes, and Chairman Daniels yes. All were in favor. The motion passed 5/0.**  
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82 In summary: In summary: An Alteration of Terrain Updated Permit (dated 10/26/20) was submitted by the Town for the  
83 sand and gravel operation on the property referred to as the Brox Community Land. One of the conditions of this permit is  
84 that the Town of Milford (Town) will put 75 +/-acres into a conservation easement (Plan sheet 1 of 9 note #11). The Board  
85 of Selectmen, at their October 14, 2019 meeting, accepted the Milford Conservation Commission's (MCC) offer to facilitate  
86 this easement process. The Conservation Commission is suggesting that the Board include the remaining cost of \$30,000 in  
87 their 2021 budget.

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89 Andy said NH Fish and Game is waiting for the permit to be reissued. Chairman Daniels asked the Town Administrator if  
90 he had an update. Administrator Shannon said the easement isn't in the contract. Administrator Shannon said we are meet-  
91 ing with NH Fish and Game next week to get more information. Our 30-day extension is up on February 19<sup>th</sup>. DES is  
92 waiting on Fish and Game.

93  
94 Selectman Labonte asked if this becomes a cost of the permit, it wasn't supposed to cost anything. The easement is a condi-  
95 tion of the permit; you can't get the permit without the easement. Administrator Shannon said the language in the contract  
96 didn't cover easements.

97  
98 Selectman Dargie suggested working out a trade with the contractor where they would pay for the easement in return for  
99 materials from the gravel operation. Administrator Shannon said they haven't brought that up to the contractor yet.

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101 Selectman Labonte read some of the contract, and he feels that easements would be part of the contractor's responsibility.  
102 Administrator Shannon said the contractor paid for the permit for \$18,000 but he repeated, the contract doesn't mention  
103 easements.

104  
105 Selectman Labonte repeated, you can't get the easement without the permit. Chris Costantino said the old permit was is-  
106 sued before the easement was completed; it has to be done at some point. Chairman Daniels asked if the AoT is approved  
107 do we do the easement right after. Administrator Shannon said that is his understanding.

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109 Lincoln Daley, Community Development Director said the easement was negotiated as part of the initial permit. There will  
110 be new discussions as part of the new permit.

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112 Selectman Freel said he is for just getting this done, pay for it, and be done. We are not selling anything unless we get this  
113 done.

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115 **Selectman Freel made a motion to spend the \$30,000 for the easement conditional upon approval of the AoT permit.**  
116 **Seconded by Selectman Dargie.**  
117

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Selectman Labonte asked where the \$30,000 would come from. Selectman Freel said from the sale of the gravel. Selectman Labonte asked for it to be reviewed by the town Counsel to see if the expense falls under the contractor. There was some conversation as to if the contract was still active, and it was determined that it is.

Selectman Dargie asked if the revenue from selling the gravel be unanticipated, which we can spend, or anticipated revenue, which we can't spend so the \$30,000 would have to come out of the budget. Paul Calabria, Finance Director said we put \$10 in as a placeholder for revenue for the gravel operation so it would be anticipated revenue.

Selectman Dargie asked Paul if he thought they could find \$30,000 in the budget for this. Paul said he is uncertain at this time. Administrator Shannon mentioned two positions that are not filled yet, maybe some of the money can come from those. Paul said he doesn't want to commit to anything at this point.

Selectman Freel said if we get the AoT permit and easement we will make \$30,000 back within this current year. He would like to add an amendment to his motion to make sure that the contractor doesn't have to pay for the easement and then we can move forward.

Selectman Labonte wants to table this and check with legal counsel first. Selectman Freel said we keep talking about the same thing over and over, it would be nice to move on. Selectman Labonte said it's the state that is holding this up, not us. Chairman Daniels asked if the \$30,000 had to be paid all at once or could it be done in payments. Chris said Fish and Game didn't give them that answer. It was her job to let the Board know that this expense was coming.

Chairman Daniels asked if money could be taken out of the fund balance. Paul said no. If money comes in, it would go into the general account under the gravel account. There is currently \$10 in that account as a place holder. It lapses each year. We received \$135,128, we budgeted \$150,000 that year. We received nothing in 2020. Selectman Labonte said we paid for sand in October. Administrator Shannon said we got about ½ a days' worth of sand from the pit and then someone called DES about the sand that had already been screened to prepare for winter and they told us we could not take anymore because the AoT permit wasn't good.

Chairman Daniels asked how long before we can get this going again. Administrator Shannon said we should know by the 19<sup>th</sup> if we are approved or not. He doesn't know how long it will take Northeast Sand and Gravel to get up and running. The surveying will still need to be done before everything is finalized.

Selectman Labonte said in 2019 we made \$135,000 and budgeted for \$150,000. The purpose for the money coming in was to be a revenue source to offset taxes. This is still pulling \$30,000 out of revenue and costing the tax-payers something. Selectman Freel said from what he knows, the easement will not be paid by the contractor. It has to be done by the people who own the land. Their contract covers permits, that's it.

Lincoln said unfortunately there were unanticipated costs that arose as part of the warrant article that was approved by the town, one being the easement and two being the legal cost to defend the AoT permit to the state. Selectman Labonte asked at what point do we keep sinking money into this when we are not getting much gain out of it. Lincoln said because of the wording of the permit and the delays caused by the state, this caused delays in the overall project. Had there not been delays, the town would have seen more revenue. The 75 acres of the easement was part of the on-going discussions with NH Fish and Game and DES as part of the initial AoT permit. This was unanticipated to us, it was offered as part of offsite mitigation for the overall project. Unfortunately, there is a cost associated with it which we were not initially aware of. Had the permit not been delayed or voided, the town would have been in a bigger and better position. The town has since re-submitted the application to the state and the goal is to capture the revenue like was initially approved.

Selectman Labonte said he met with the contractor previously and he was told that because they hit hard till it would cut them back quite a bit on expected yardage. He asked if anyone had the projected loss from that. Lincoln said he hadn't verified that discussion or the possible loss. He will follow-up with the contractor. Administrator Shannon said nothing was mentioned to him about this.

Selectman Freel asked how long the permits were good for. Lincoln said initially it was a three to five-year time frame. This new permit should cover the same amount of time. Selectman Freel asked if the permit needs to be renewed each year. Lincoln said no, it's not an annual fee; the permit covers the time frame for the permit. Selectman Freel said after everything is done, you are talking over \$375,000 to \$500,000 in revenue, he feels that \$30,000 is worth it.

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Chairman Daniels said if we go forward with the motion, where does the \$30,000 come from. We can't take it out of the fund balance and we have nothing in the gravel account. Selectman Freel asked if we could take it from a larger section of the budget and then pay it back when the money comes in. Selectman Labonte said if we end up with a default budget, where would the money come from then. There was more discussion about where the money could come from, when the operation will start up again, etc.

Selectman Dargie said because there is ten dollars in that account, the money coming in is anticipated and you can't just add it to the budget. Selectman Labonte said no one expected a year delay in this. Selectman Dargie said he would be okay paying the \$30,000; his only concern is if we get a default budget. He's in favor of moving ahead.

Paul asked if the \$30,000 could be paid for out of Conservation knowing that they would receive the funds back. Andy said the Commission would have to discuss, it's not a cast-iron guaranty that it's coming back. Selectman Freel said we should have thought of this when we were talking about the money returned from the CARES act. Selectman Freel asked if Administrator Shannon could ask NorthEast Sand and Gravel how long it would take to receive \$30,000 in revenue just in case Conservation decided to help out. Selectman Dargie said he doesn't think they will be allowed to use the money from this to reimburse Conservation.

Selectman Freel asked if it was possible to build up another account after the gravel is sold to use for things like this. Paul said they could set up a capital reserve fund. They would have to pick an amount each year to put in a non-lapsing fund and it would have to be done through a warrant.

**Seconded by Selectman Dargie. 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.**

- 2. PUBLIC COMMENTS (regarding items that are not on the agenda)** Chairman Daniels said the BSA Scout Troop 4 has been permitted to meet again. We previously permitted them to use the banquet hall for meetings and then we closed the town hall down. Meetings are critical as there is only so much time to finish an Eagle Scout project. Administrator Shannon said it was already approved previously so it doesn't need Board approval again. The meetings are from 7pm to 9pm twice a month and we feel it can be done as long as they follow the COVID protocols.

Selectman Dargie asked if anyone else besides the scouts could meet. Administrator Shannon said the Board only permitted the scouts. Recreation is looking to start some small programs back up sometime in February. Chairman Daniels is fine with the Town Administrator working with his staff to do what is necessary to keep things safe.

- 4. DECISIONS – Selectman Dargie made a motion to approve the consent calendar except for 4. a) 1). Seconded by Selectman Dudziak. 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.**

**Selectman Dargie recused himself from voting on 4. a) 1) as it pertains to a family member.**

**Selectman Dudziak made a motion to approve the consent calendar except for 4. a) 1). Seconded by Selectman Freel. A roll call vote was taken with Selectman Dudziak yes, Selectman Labonte yes, Selectman Freel yes, and Chairman Daniels yes. All were in favor. The motion passed 4-0-1 with Selectman Dargie recusing.**

**a) CONSENT CALENDAR.**

1. Request to re-appoint Joan Dargie and Michael Thornton as Members of the Zoning Board of Adjustments – Terms Expire 2024.
2. Request approval of Annual Parade Permits, Memorial Day, Labor Day and Veterans Day.

**b) OTHER DECISIONS –**

**1. Approval of revised Purchasing and Procurement Policy NO. 2007-01**

Selectman Labonte asked where the change was that was made. Administrator Shannon said in section VII, those amounts are now "gross" amounts. Tina read the SECTION VII: PROCUREMENT PROCESS – "The process for procurement of goods and services shall be as outlined below with each amount designated to be a gross amount".

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Selectman Labonte made a motion to amend the Purchasing and Procurement Policy as amended with the verbiage read by Tina. Seconded by Selectman Dudziak. 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.

### 5. TOWN STATUS REPORT -

#### 1. Town Report and Voters Guide Update – Tina Philbrick (VERBAL)

Tina said that the town report is complete and was sent to the printers on Friday, February 5<sup>TH</sup>. There was a minor issue that was pointed out after it was sent, and that was corrected today. She will review the proof tomorrow and authorize it to go to print. The town's portion of the voter's guide is complete and she is just waiting for the school's section. The whole guide will be sent to the printers this week.

Chairman Daniels asked if it will be sent out by household. Tina said yes, one copy to each household. Selectman Labonte asked if there will be extra copies available at the town hall. Tina said yes. Selectman Dargie asked if it was every household or every registered voter. Tina said every household; to separate it would be too much.

#### 2. Recycling Update – Town Administrator, John Shannon

The transfer station is currently taking aluminum, steel, and tin cans, glass bottles, and glass jars only (no caps or covers please), corrugated cardboard, and clean mixed paper and magazines. We will begin taking plastics again in February. We have hoppers outside the recycling center where residents can separate cans and bottles with plastics to be added. Additional information will be posted on the Town website when it becomes available.

Chairman Daniels asked if the process in the Transfer Station will change from what it previously was. Administrator Shannon said just a little. Selectman Dargie asked what the recommendation from the Transfer Station supervisor as to when you should start doing this. Administrator Shannon said April, but we are changing the process to get it done safely and earlier. Selectman Dargie presumes there will be sorting, plastic is different because the pieces go into different containers. From a safety perspective, it's worse than the other recyclables.

### 6. DISCUSSIONS:

#### a. N/A

### 7. PUBLIC COMMENTS: - There were no public comments at this time.

### 8. SELECTMEN'S REPORTS/DISCUSSIONS.

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

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

Selectman Labonte asked if the town of Milford decided in regards to the letter requesting a meeting with all towns about the dispatch from the Town of Wilton received on January 4<sup>th</sup>. Chairman Daniels said there have been discussions about waiting until after the March vote to see what is going to happen. Selectman Labonte asked if it would be better to meet with them to discuss either the IMA or first responder's network. Chairman Daniels said we haven't figured everything out yet. Selectman Labonte asked that we at least respond to their request. Chairman Daniels said yes.

Administrator Shannon said he spoke to the Town Administrator in Wilton and he knows where we stand. There have been discussions at his level. Chairman Daniels asked the Board if they would rather wait until after the election before responding to the other towns. Selectman Dargie and Selectman Dudziak said yes. Selectman Freel said he could go either way. Selectman Labonte said CTA already gave a presentation to the BOG of MACC Base. Chairman Daniels said that isn't the only consideration. Chairman Daniels repeated as in the past, one of the major benefits to anyone coming on as a customer would be that each of their emergency services will have a representative on the operations and the finance committee. We haven't talked about how those will be structured. There is a lot of work to be done before we go out and have a random talk.

Selectman Labonte said if this is being presented to the tax-payers that this is going to be a benefit, he feels it should be ironed out before voting. Administrator Shannon said all the towns are aware that this is a warrant and what we are doing. No one is unclear about what is going on. It's better to wait to see what course we are taking. There is no value-added with all the Boards getting together now when we don't have a final plan. Selectman Labonte just wanted to see if the other town had any interest in joining us. Chairman Daniels said it can wait until after the vote.



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Selectman Freel asked about going back to a hybrid meeting. Chairman Daniels said it's a possibility. If you have a majority of the Board at the town hall location, the doors have to be open to the public.

**9. APPROVAL OF FINAL MINUTES -** Selectman Dargie moved to approve the minutes of January 25, 2021, and January 30, 2021, (Deliberative Session Re-votes). Seconded by Selectman Dudziak. 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.

Selectman Dargie let the public know that the BOS met after the deliberative session; several Board members changed their votes on several warrant articles from being in favor of some warrant articles to being opposed to them and the default budget was reduced by \$100,000.

### **10. INFORMATION ITEMS REQUIRING NO DECISIONS.**

a. N/A

**11. NOTICES.** Notices were read.

**12. NON-PUBLIC SESSION.** A motion made by Selectman Freel to enter into a non-public session at 6:45 in accordance with RSA 91-A:3, II (a) – Personnel and approval of non-public minutes (RSA 91-A:3, II(a)) – Personnel – January 11, 2021, (RSA 91-A:3, II(a)) – Personnel – January 25, 2021, and (RSA 91-A:3, II(b)) – Personnel – January 25, 2021, Seconded by Selectman Dargie. 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.

In non-public, the Board made one decision.

Selectman Dargie made a motion to seal the non-public minutes of February 8, 2021. 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.

**13. ADJOURNMENT:** Selectman Dudziak moved to adjourn at 7:32 pm. Seconded by Selectman Dargie. 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.

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Gary Daniels, Chairman

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Chris Labonte, Member

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Paul Dargie, Vice Chairman

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David Freel, Member

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Laura Dudziak, Member