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APPROVED

MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING – Special Meeting

January 20, 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# 858 3608 0860 and the password is 680611 or join the Zoom Meeting @ <https://zoom.us/j/85836800860>. 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 (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, no one is present. Selectman Dudziak, yes no one is present. Selectman Labonte yes, no one is present. Selectman Freel, yes, no one is present, and Chairman Daniels yes, no one is present.**

**2. APPOINTMENTS: (Approximate times) N/A**

**3. PUBLIC COMMENTS (regarding items that are not on the agenda)** There were no public comments at this time.

**4. DECISIONS –**

**CONSENT CALENDAR.**

1. N/A

**b) OTHER DECISIONS –**

a. Release of non-public Information concerning the First Responders Communication Network

Chairman Daniels said the breakdown for the First Responders Communication Network \$2,400,000 warrant article will be released to the public once the non-public minutes are unsealed. All information will be available to the public prior to the deliberative session. Information will be posted on the Town's web site.

**Selectman Labonte made a motion to unseal the minutes of November 9, 2020, November 23, 2020, and December 28, 2020, all in accordance with RSA 91-A:3,II(e)) Legal. 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.**

b. DRAFT Warrant Article Votes and Reconsideration

Chairman Daniels said that the Board still needed to take some votes on several warrant articles.

**WADLEIGH LIBRARY MAINTENANCE AND UPKEEP CAPITAL RESERVE**

Selectman Freel moved to recommend the warrant article for the Wadleigh Library Maintenance and Upkeep Capital Reserve. 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.**

**NASHUA STREET PEDESTRIAN SAFETY and SIDEWALK IMPROVEMENT PROJECT – by petition**

**APPROVED MINUTES OF BOARD OF SELECTMEN MEETING – 1/20/2021**  
**Special Meeting**

Selectman Dargie moved to recommend the Nashua Street Pedestrian Safety and Sidewalk Improvement Project. Seconded by Selectman Dudziak. A roll call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte no, Selectman Freel no and Chairman Daniels no. The motion failed 2/3 with Selectman Daniels, Selectman Labonte and Selectman Freel opposed.

**OSGOOD ROAD, MELENDY ROAD, AND ARMORY ROAD PEDESTRIAN SAFETY SIDEWALK AND BICYCLE LANE PROJECT – by petition**

Selectman Dargie moved to recommend the Osgood Road, Melendy Road, and Armory Road Pedestrian Safety Sidewalk and Bicycle Lane Project. Seconded by Selectman Dudziak. A roll call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte no, Selectman Freel no and Chairman Daniels no. The motion failed 2/3 with Selectman Daniels, Selectman Labonte and Selectman Freel opposed.

Chairman Daniels will write the majority reports for the last two warrants and Selectman Dargie will write the minority reports.

**DPW VEHICLES AND HEAVY EQUIPMENT CAPITAL RESERVE**

Selectman Dudziak changed her position on the DPW Vehicles and Heavy Equipment Capital Reserve. The vote is now 0/5 with no one supporting it.

**TOWN FACILITIES RENOVATION AND MAJOR REPAIR REPLACEMENT CAPITAL RESERVE**

Selectman Dudziak changed her position on Town Facilities Renovation and Major Repair Replacement capital reserve warrant article. The vote is now 0/5 with no one supporting it.

Chairman Daniels moved to take DPW Vehicles and Heavy Equipment Capital Reserve off the warrant. 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.

Chairman Daniels moved to take the Town Facilities Renovation and Major Repair Replacement Capital Reserve off the warrant. 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 Freel asked for more information about the Keyes Park Expansion Committee Project Capital Reserve. Selectman Dargie gave an overview of the project. Currently, there is a \$59,000 study looking into a long term plan for Recreation in Milford at Keyes field. The project has been delayed. The account will have zero dollars in it once the study is complete. They have outdoor exercise equipment that needs to be installed and a walking path needs to be put in next to the river and they need additional money to do this.

Chairman Daniels opposes this because even with the delays with COVID, the project can move forward with the study. He doesn't feel more money is needed at this time. Selectman Dargie said Milford traditionally short changes non-emergency functions like the Library and Recreation. Adding \$25,000 to recreation is a modest amount to contribute to an area that traditionally hasn't received much. Selectman Labonte asked if DPW could help with some of the projects. Administrator Shannon will check with Recreation and DPW.

Selectman Freel changed his position on the Keyes Park Expansion Committee Project Capital Reserve warrant article. The vote is now 2/3.

**Fire Rescue Truck Replacement - 7-Year Lease/Purchase - \$689,700 (Annual Lease Payment \$86,214; \$100,000 Paid from Fire Apparatus Replacement Capital Reserve the Total Purchase Price (\$689,700))**

Two versions of this warrant article were presented. The original one using \$100,000 from the Fire Apparatus Replacement Capital Reserve and requiring a 60% affirmative vote to pass and the other one not using any monies from the capital reserve account and only requiring a 50% majority vote to pass.

Selectman Dargie is in favor of language that doesn't use capital reserve and only requires a majority vote to pass. He has concerns about this article not passing. Selectman Freel feels we should be using the capital reserves for the purpose that

**APPROVED MINUTES OF BOARD OF SELECTMEN MEETING – 1/20/2021**  
**Special Meeting**

they were established although he does agree with the majority vote instead of 60%. Selectman Dargie said several vehicles in the last eight years passed between 50% and 60% but would not have passed if they required a 60% vote. Paul Calabria, Finance Director said according to DRA, although we would need a 3/5 majority to withdraw from the capital reserve account, we could go with the majority option and then use the capital reserve monies to pay off the last year of the lease. The problem with that is that you have to make sure there is money in the capital reserve account to do this. You will still be paying interest on the ladder truck for the first 6 years and interest rates are still low at this time. If the town continues to support the capital reserve program, we can use it for the final year's payment.

Chairman Daniels questions the language of "raise and appropriate \$100,000 from the Fire Apparatus Replacement Capital Reserve Fund as a down payment to reduce the lease/purchase price" he said we already raised and appropriated that money. Paul said it's the language that the DRA recommends to withdraw money from the capital reserve account. Chairman Daniels still thinks it's wrong. Paul said it's written that way because we are appropriating the money from the trust funds.

Selectman Freel feels that you are saving this money for several years you should be using that money. Why can't you just take the money out in the 2<sup>nd</sup> year instead of waiting until the 7<sup>th</sup> year? Paul said we have to commit the town to long term debt with this article with 60%. If we go with the majority only, you can't use your capital reserves until you know you are going to own the vehicle.

Selectman Dargie wants to have a warrant article next year to zero out that capital reserve and return the money to the taxpayers. He would just like to do a normal warrant article and fund 100% of the purchase price. Using the capital reserve makes it a 60% vote and it's risky. Selectman Freel said the Budget Advisory Committee is for capital reserve accounts.

Selectman Labonte is in favor of capital reserve accounts. He feels that going for a 60% vote means that you have proven your need. He feels that a 51% vote isn't adequate on long term debt. Not utilizing capital reserve puts more of a burden on the tax-payers by increasing their lease payments every year by increasing the interest. By using capital reserve on year seven he feels that you have now paid interest on that capital of \$100,000 for six years. Getting rid of interest is a way to save money. If this warrant article goes on without the capital reserve language in it, he won't vote for it.

Paul said that Selectman Dargie pointed out that there is a fatal flaw with the majority vote and using capital reserves. The voters vote depending on how their circumstances are, no matter how much we educate them. Paul would recommend doing it with the capital reserve because of the fatal flaw and how those laws are written. Language is being presented to change this language, but it hasn't happened yet. Until it's changed, we should either use the capital reserve for the last year's payment or do away with them and return them to the tax-payers. Selectman Labonte still doesn't agree with it.

Chairman Daniels suggests that someone bring in language at the next meeting for using capital reserve as the year's payment on the ladder truck. Selectman Dargie said that language has already been provided in the document that they have in front of them, it's written in purple. He is in favor of using the purple language version for all three articles.

**Selectman Dargie made a motion to use the language that changes the warrant article for the fire rescue warrant article to a majority vote only. Seconded by Selectman Dudziak.**

Selectman Freel is still leaning towards using the capital reserve for this warrant. Chief Flaherty, Fire Department, said he's in favor of whatever the Board will support 5/0 because historically a 5/0 vote is what the tax-payers make their decisions on. Having a split vote may cause the warrant article to fail.

Paul said because there was no action taken by the Board to buy some vehicles out of surplus knowing that we need vehicle replacement, he would recommend the 50% option and using the capital reserve for the final payment. Selectman Labonte repeated that he won't support the truck without the capital reserve language.

Administrator Shannon asked the Fire Chief what would happen if he doesn't get this truck this year. Captain Flaherty said they would have to delay purchasing other apparatus later on. We are also trying to reduce manpower by putting two trucks into one. We are up for an ISO audit this year and not having the truck could adversely affect our rating.

Selectman Freel clarified that using the capital reserve six years from now can't be written into the warrant article this year. Paul said yes. Selectman Freel repeated that he still wants to see the capital reserve money used for this warrant this year. Chairman Daniels agreed.

**APPROVED MINUTES OF BOARD OF SELECTMEN MEETING - 1/20/2021**  
**Special Meeting**

**A roll call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte no, Selectman Freel no and Chairman Daniels no. The motion failed 2/3 with Selectman Daniels, Selectman Labonte and Selectman Freel opposed. The language will not be changed.**

Selectman Dargie asked to skip over the Public Works Snow Plow Unit Warrant article because it's basically the same discussion.

**PUBLIC WORKS WHEEL BUCKET LOADER PURCHASE**

Selectman Dargie explained that the original warrant article requires a 60% vote and uses a capital reserve and is a three-year lease purchase. The second warrant article referenced (in purple) authorizes the purchase of the loader we are currently leasing and we get credit for this winter's payment towards the purchase. This uses the capital reserve account of \$120,000 as a one-time payment and the balance is also just a one-time payment, not a three-year lease purchase, and would only need a 50% vote. Overall, we are buying the existing one with a discount of \$19,000. The balance of the \$7,118 would be from the current year's expenditure.

**Selectman Dargie made a motion to change the Public Works Wheel bucket Loader warrant article with alternate language to reflect a 50% majority vote. Seconded by Selectman Dudziak.**

Selectman Labonte referenced the purchase policy and asked if we could do this with a single point purchase. The purchase policy states that we have to have three quotes. Administrator Shannon said the unit they are currently leasing is a Hitachi, that's why it's specified. Selectman Labonte asked if the town can spend \$146,000 by getting a single quote. Selectman Dargie said we can always override the existing three quote policy. Sole sourcing does exist. Administrator Shannon said he would clarify that information and get it to the Board for next Monday's meeting.

Selectman Dargie said it makes it easier for Tina if we are in a position we think we might end up in. She needs to post these articles Monday night after changes are made after the meeting. Administrator Shannon asked if it could be passed on the contingency that it's legal within the town's policy to not have three quotes in this one instance.

Selectman Labonte said it would be contingent on if it's the same Hitachi loader even in the red warrant article wording. The \$19,000 would still be eligible to come off that warrant article providing that it's that vendor.

Selectman Freel needed more clarification on what we are looking to do with this warrant article. Paul said that Director Riendeau came to him with this alternative language which was reviewed with the DRA. The purchase price is \$146,000. We are looking to withdraw the entire \$120,000 from the capital reserve account, we are getting credit for the \$19,000 from Chappell Tractor, some of which we've already used this year, and the remaining \$7,118 is coming from taxation. In the red writing, we were only using \$80,000 from the capital reserve account and we were going to enter into a lease for the remaining \$60,000. It requires a 60% vote. Using the second option there will be no lease or interest needed and it's a one-time small payment. Selectman Freel said he would be in favor of the second option.

Selectman Labonte asked if the \$7,118 was an addition to the budget. Paul said yes. Selectman Labonte asked how old the loader was. He's assuming it isn't new. Selectman Freel said if it's coming from Chappell's, they wouldn't be charging more than it's worth. Chris Anton, DPW Highway Manager, said it's a new loader, last year's model. The total purchase price is \$165,000 minus dealer and manufacturer's discount brought it down to \$146,118 minus the \$19,000 rental agreement which brings it down to the \$127,118 purchase price. We were able to get the vehicle through the generosity of Chappell's.

Selectman Labonte still favors the warrant article in red at the 60% vote and only using \$80,000 from the capital reserve account.

**A roll call vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte no, Selectman Freel yes and Chairman Daniels no. The motion passed 3/2 with Selectman Daniels and Selectman Labonte opposed.**

Selectman Dargie asked to re-vote on recommending this article due to the language change.

**APPROVED MINUTES OF BOARD OF SELECTMEN MEETING – 1/20/2021**  
**Special Meeting**

**Selectman Dargie made a motion to recommend the Public Works Wheel bucket Loader warrant article using \$120,000 from the capital reserve account. Seconded by Selectman Dudziak.**

Selectman Freel asked if this uses all the capital reserve from this account. Chairman Daniels said yes. He voted against the new language because he is confused about some of the language. Selectman Labonte said this has now increased DPW's budget by \$17,000 and has allowed the \$19,000 to be spent elsewhere from the rental. One could say you were now more than \$12,000 up on the budget. Selectman Freel said he didn't see it that way.

Paul said the Town Administrator can have this discussion with Director Riendeau and that should this warrant article pass as is, we would ask him not to spend those funds. Selectman Dargie said that isn't how he reads it. He interprets this as we would still spend the \$19,000 and it gets counted towards the purchase. It still comes out of the regular town budget, it's still being spent. Selectman Freel agreed; we were renting it regardless.

Selectman Dargie said on the first warrant article the payment was \$22,980 and that payment is being replaced by \$7,118 so the payment is going down, he is questioning the estimated tax impact. Chairman Daniels said the cash that is being used is \$26,118 which is \$7,118 plus the rental amount of \$19,000. At this point, there was major confusion and interpretation from several Board members.

Selectman Labonte presumes that the rental started in 2020. Chris said yes, two months payment was in 2020, moving forward will be three months of payment in the 2021 budget. The \$7,118 that they are talking about isn't in addition to the budget; it will be absorbed through the DPW budget they are not asking to increase the budget.

Selectman Labonte said you already made two payments for the lease in 2020 and there will be three more payments in 2021. Are you saying that the remainder of the rental money is where you are going to come up with the additional \$7,118? Chris said there are multiple areas where it can be pulled from; he isn't saying he will directly take it out of the line item Selectman Labonte is referring to. Out of a \$3,000,000 budget, they should be able to find \$7,118 to off-set this purchase and pay cash for it. Chris said they could use the funds that are leftover and apply them to this so that it's zero out. Selectman Labonte said if we are not going to rent it anymore we should remove the rental amount from the budget moving forward. Paul said the warrant article for the budget goes in after Deliberative and we can't reduce it and make it contingent on the passing of the bucket loader article.

Selectman Freel said you are going to rent the loader regardless, if the tax-payers vote yes Chappell's is going to take the rental price off the purchase price of the loader, he doesn't see the negative on that.

Chris tried to simplify this for the Board: If you have \$19,000, three months payments will cost \$11,400, we have enough room to pay the difference and that would zero it out for the 2021 budget season. Selectman Labonte said it's an increase in DPW's budget of \$7,118. Chris repeated, they are not asking to increase the budget by \$7,118.

Chairman Daniels clarified that the \$7,118 would be found within DPW's \$3,000,000 budget. Chris said yes it would be found within the 2021 budget, they are not asking for an increase. Selectman Labonte said if you are buying the rental we should be reducing the rental for 2021. Chris said that their equipment rental is not solely for this operation. Other equipment is rented throughout the year that is also including in this.

Chairman Daniels said the language in the warrant article is misleading. The language implies that we are using \$19,000 to reduce the price. Selectman Labonte wants to reduce the 2021 rental amount for DPW. Chris said if it's reduced now and the loader fails, you have no money for rental cost needed for the winter of 2021. Selectman Labonte agreed.

Selectman Freel said the idea is to use an additional \$40,000 of the capital reserve and try to get this done in one year instead of a three-year lease program. He doesn't understand why it's this hard to understand. Does all this information have to be included in the warrant? Paul said yes it does. Selectman Freel is still for the warrant article.

Selectman Labonte wants to know what clarification we are waiting for on Monday. Selectman Freel said that DPW won't spend that money in their budget. Selectman Labonte also wants clarification on the purchase policy for sole source. Administrator Shannon repeated that he will get that for the Board.



**APPROVED MINUTES OF BOARD OF SELECTMEN MEETING – 1/20/2021**  
**Special Meeting**

Chairman Daniels said he isn't sure he's in favor of eliminating competition in the bidding. He asked if there was a reason that Hitachi needs to be there. Selectman Labonte said yes, it's the only way you will get the \$19,000 back. If you put it out to bid and someone else came in cheaper than \$19,000 than Hitachi that would be the only way this would be advantageous. Chris repeated there are two factors; the generous discount that was extended by the Chappell family combined with the municipal discount will not be matched by another vendor. The second is that the \$19,000 is also the generous donation from the Chappell family to be 100% applied which will also not be able to be applied by another other vendors. He will get as many quotes as you want, but they will not be lower than this one.

Selectman Freel agrees with Chris Anton, it sounds like a very good deal, and knowing the Chappell family he doesn't think that they would ever take advantage of this town. Chairman Daniels said they will have Administrator Shannon check on the purchase policy to make sure there are no problems in going this way.

Selectman Dargie thinks it would be okay to remove the word Hitachi from the warrant article so if you wanted to go get quotes you could. Selectman Labonte said the problem with that is that the \$19,000 wouldn't apply because it only applies to the Hitachi. Chris said that is correct. Selectman Dargie said we will get the same quote from them whether the word Hitachi is in the warrant article or not.

Administrator Shannon said section VIII letter A in the procurement policy reads: Sole Source Proposals: The Town of Milford will not entertain the solicitation of a single-source vendor for supplies and/or services unless the competitive bid requirements are explicitly waived by a vote of the Board of Selectmen.

Selectman Labonte isn't opposed to the loader. If someone were to take a stance on staying with the 60% vote, wouldn't it be uniformed to stay with the original language? What is the difference from a Finance point of view? Paul said it's just in the majority needed to pass the article. Both are using capital reserve but the second one buys the vehicle this year so we don't need the 60% because we are not leasing it over three years.

Selectman Labonte questioned the tax impact being lower on the original warrant article. Paul said the lease amount is lower. Tina Philbrick, Milford resident, asked how much interest we would have to pay back on the first warrant article with the three-year lease. Paul said they are projecting about 2% for a total of less than \$5,000 over three years.

Selectman Labonte is staying with the first option with the 60% vote. You are saving 18 cents by going with the 60% vote option. Selectman Dargie said only in the first year, you still have a tax impact over the next two lease payment years.

**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.** Selectman Dargie will do a majority report and Selectman Labonte will do a minority report if needed.

Kathy Parenti, Library Trustee Chair, said there was confusion about the Library warrant article. Their estimate comes in at \$1,200,000 and we are only asking the town for \$995,000. Do we need to indicate that the Trustees will cover anything above that or can we leave it as it is? Paul said the DRA said they can amend the warrant article at the Deliberative session because the net is not changing. The municipal budget act requires that all appropriations are shown in a gross state. You would have to show the \$1,200,000 and the expenditure from the trust fund of \$205,000 to get down to the \$995,000 net amount that you are asking the tax-payers to bond. He is working with DRA on the language.

**5. TOWN STATUS REPORT – N/A**

**6. DISCUSSIONS: 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).**

**9. APPROVAL OF FINAL MINUTES – N/A**

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

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

**12. NON-PUBLIC SESSION. N/A**

**APPROVED MINUTES OF BOARD OF SELECTMEN MEETING – 1/20/2021**  
**Special Meeting**

340 **13. ADJOURNMENT:** Selectman Freel moved to adjourn at 8:35 pm. Seconded by Selectman Dargie. A roll call  
341 vote was taken with Selectman Dargie yes, Selectman Dudziak yes, Selectman Labonte yes, Selectman Freel yes, and  
342 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