

APPROVED  
MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING

January 27, 2020

<b>PRESENT:</b>	Gary Daniels, Chairman	Mark Bender, Town Administrator
	Paul Dargie, Vice Chairman	John Shannon, New Town Administrator
	Mike Putnam, Member	Tina Philbrick, Recording Secretary
	Laura Dudziak, Member	Rich Addonizio, Videographer
	Chris Labonte, Member	

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

**INSTRUCTIONS:** Chairman Daniels 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 Daniels 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.** - Approval of Land Use Change Tax for 4 Parcels: Map 41 Lot 74-1, Map 54 Lot 2-1, Map 50 Lot 7 and Map 43 Lot 61. Correction for Land Use Change Tax Map 50 Lot 7-2 – Marti Noel

Parcel 41/74-3 had a portion of the lot out of Current Use, but is expanding that area to include enough space to construct a single family home.

Parcel 54/2-1 requires a small portion of land be removed for the construction of an accessory building in support of a single family home on an adjacent lot.

Parcel 50/7 is a building site recently sold and no longer qualifies for Current Use due to size with no contiguous parcels under identical ownership.

Parcel 43/61 also is a building site that recently sold and no longer qualifies for current use due to size with no contiguous parcels under identical ownership. It recently had preliminary approve to build a 9 unit apartment building. Selectman Dargie asked if this was less than 10 acres. Marti said yes.

Parcel 50/7-2 is a corrective document for recording at the HCRD to correct a Land Use Change Tax Notice filed in 2017 which was recently discovered to reference an incorrect parcel. There is no Tax associated with this as it is correctional only.

Selectman Putman made a motion to accept the Land Use Change Tax recommendations. Selectman Dudziak seconded. All were in favor. The motion passed 5/0.

**5:40 p.m. - Community Center Feasibility Study – Arene Berry and Lincoln Daley**

The intent of this memorandum is to summarize the consultant selection process for the Request for Qualifications for the Milford Community Center Feasibility Study (RFQ 2019-002) and Committee recommendation for the preferred consultant for Board approval. The Committee is also requesting the authorization of the Board to expend \$60,000 from the Keyes Park Expansion Committee Project Capital Reserve Fund to complete the feasibility study.

The Town received six responses to the Request for Qualifications by the September 24, 2019 project deadline. The Committee reviewed the proposals to ensure that each met the minimum submittal requirements, qualifications, and eight selection criteria stated in the RFQ document. The Committee narrowed the number of consulting firms to three, who were then interviewed by the Committee members for further evaluation and additional questions. The companies were then asked to provide a scope and project fee for their services.

In evaluating the initial scope and fee submitted by the three selected companies, Committee members determined that the overall cost estimates far exceeded the anticipated funding for the project. In an effort to make the project financial manageable while meeting intent and project scope of the RFQ, Committee members requested that each company re-submit a scope and fee with project budget not to exceed \$60,000.

After careful review and consideration, the 127 Elm Street Building Subcommittee is recommending The H.L. Turner Group, Inc. as the preferred consultant totaling \$59,815. All the three selected firms were well qualified to complete the feasibility study and submitted a similar project cost. The Committee chose The H.L. Turner Group, Inc. based on their assembled team, understanding of the project, experience with similar and comparable municipal projects, final scope of work, and references.

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Chairman Daniels clarified that they had more than three submissions bid. Lincoln said yes and they narrowed it down to three. Chairman Daniels referenced the start date, and asked if that date going to shift due to the late start. Lincoln said they should meet their deadline. Chairman Daniels asked if they will be looking at potential programs that will fit in that building. Lincoln said yes. Chairman Daniels asked if the study would include a regional approach. Lincoln said yes they would invite all the groups and parties in for input.

Selectman Dargie said he strongly supports the choice of this group. Administrator Bender asked if this was the same group that did the school in Concord and converted it into a multi-purpose recreation facility. Arene said yes.

**Selectman Putnam made a motion was made to approve H.L. Turner Group, Inc. as the preferred consultant. Seconded by Selectman Dudziak. All were in favor. The motion passed 5/0.**

**Selectman Putnam made a motion to authorize \$59,815 to be spent from the Keyes Park Expansion Committee Project Capital Reserve Fund. Seconded by Selectman Dudziak. All were in favor. The motion passed 5/0.**

### **3. PUBLIC COMMENTS –**

Suzanne Fournier, Milford citizen asked when the Board will post the last information on the gravel operation. The excavation has stopped as of December 6<sup>th</sup>. She said the DES letter should be posted on the web site. She proceeded to read the letter. She asked when the public could expect updated information on the web site.

Chairman Daniels said the letter doesn't need to be posted on the website but they would post that the gravel operation has been suspended.

Suzanne asked if the Board has retrieved the keys to the Heron Pond Road gate? She referenced DPW and Water Utilities and the dumping of materials in the pit. She feels now that the permit is void, they shouldn't be using those areas previously set aside for them. Chairman Daniels said all parties involved have been notified. Administrator Bender said they used that location prior to the AoT permit and they will continue to use it. Suzanne said she would be in contact with the Solid Waste Bureau. Suzanne said in addition to the town losing their gravel permit, today the state issued an order against the second gravel operation on private land.

Suzanne referenced the Solar Project and stated that a state listed spotted turtle died last year in the location where the solar panels will be put up. She asked who will be filing the AoT application for the solar project. Administrator Bender said it's still to be determined. Suzanne said she understood it was to be filed by Granite Apollo.

Suzanne said the BROX land and adjacent 100 acres of private land is a bad site to put a solar array. She read another document. NH doesn't have a clear set of guidelines to steer solar sites in the right places. Her group, the Brox Environmental Citizens wrote a "white paper" on guidelines on Solar arrays for NH's public good. Suzanne handed her paper out to the Board.

### **4. DECISIONS.**

**a) CONSENT CALENDAR.** Selectman Putnam made a motion to approve the consent calendar. Seconded by Selectman Dudziak. All were in favor. The motion passed 5/0.

1. Request for Acceptance and Appropriation of Unanticipated Revenues Under \$10,000 (31:95(b))31:95 –
  - Donation from Health Trust to the Milford Police Department for the Town's Wellness Campaign - \$500.00
  - Donation from the Working Dog Foundation, Inc. to the Milford Police Department's K-9 account.- \$4,878.88
2. Request for Acceptance and Appropriation of Unanticipated Revenues Under \$5,000 (31:95(e))31:95
  - Donation of 10 bags of speedy dry (oil absorbent) to the Milford Fire Department – \$109.90
3. Approval of Milford & Amherst Mutual Aid & Assistance Agreement - Renewal

### **b) OTHER DECISIONS.**

1. Voting Day Scheduling for the Primary Election – Tuesday, February 11<sup>th</sup>  
The Selectman discussed times they could cover the Primary Election.

### **5. TOWN STATUS REPORT –**

#### **a) Fund Balance Review, Decision for Amount to Reduce Taxes**

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Administrator Bender referred to a Fund Balance Analysis spreadsheet. Professional guidance is provided to towns on the minimum fund balance as a percentage of Town, County and School Appropriations and gave a brief explanation as follows:

- NH DRA recommends that towns retain 5% to 10%
- NHGFOA recommends that towns retain 8% to 17%

Our unaudited fund balance at 12/31/19 was \$4.6 million and it represents 10.7% of the Gross Town, County and School Appropriations. The total gross appropriation for Town, County and Schools for fiscal year 2019, is \$41.5 million. This is well within the guidelines and is an increase of \$550,000 from the prior year balance. We have shown a steady increase in Fund Balance for the past five years due to a combined expense surplus and improved revenues. Last year we used \$200,000 from Fund Balance to reduce taxes along with the unexpected Municipal Aid of \$183,000 for a total of \$383,000.

This year, staff recommends using \$500,000 of Fund Balance to reduce taxes. The remaining Unreserved Fund Balance would be \$3.95 million or 9.5% of Gross Appropriations. Looking at the 2020 Budget Summary & Estimated Tax Rate Calculation, using the proposed \$500,000 would provide an Estimated 2020 Tax Rate of \$6.01 if the Proposed Budget and all Warrant Articles pass. This is an increase of \$0.27 or 4.7%

Administrator Bender said the proposed budget is \$15,261,695, reducing that by estimated non property tax revenue, (auto registrations, ambulance fees, building permits, meals and room's tax, municipal aid for 2020, highway block grant, etc.), these total \$6.49 thousand. The net of that gives us the amount that we have to raise by property taxes, \$8.76 million. This divided by the total gross appropriation of \$1,618,557,667 gives you the tax impact of \$5.74. The gross appropriation is about \$18 million higher than last year. This is per Marti's input on the increase valuations and known things that are going on in town. If you look at all the other warrant articles that have a tax impact and add it to the budget item it's \$6.13. You then have to apply the overlays', (abatements, veterans' credits, etc.) you come up with an amount of taxes to be raised of \$10.2 million or \$6.32. If we apply the \$500,000 allocation of unrestricted fund balance it would reduce the tax rate by .31. That would make our estimated tax rate for 2020 \$6.01 compared to our current tax rate of \$5.74 for a difference of .27 or 4.7%.

Selectman Putnam suggest increasing the fund balance appropriation to \$750,000 which would still leave us with over \$3.5 million, it's the people's money and we should give it back to them. Administrator Bender said if we apply \$750,000 it would have a tax impact of .46 and the estimated tax rate for 2020 \$5.86, and increase of .12 or 2.1%.

Selectman Dargie referred to the gross appropriation of \$41.5 million and said it seemed low. Paul Calabria, Finance Director, said it came off the state report when we set the tax rate in 2019. Selectman Labonte asked if that number is what needs to be raised with tax payer's dollars. Paul said yes. Selectman Dargie said gross appropriation is the amount to be spent which would be similar to the \$15.2 million spoken about earlier. Selectman Dargie said he feels that it should be closer to \$57 million. Administrator Bender said he thinks it's the net appropriations, not gross. He asked Paul to check on that number. Paul checked the \$41.5 million and it was correct.

Rodny Richie, Milford resident, asked if the Board could provide information as to why the state recommends a certain level in the fund balance, why we have these funds, and how much should we have available. Administrator Bender said some of it is an emergency level protection for the town. It affects the amount of borrowing that a town can do, the higher the fund balance the more debt you can take on. The lower the fund balance the higher the interest rate will be on borrowing. Selectman Dargie said it's also a cash flow thing. We get our income from taxes and this gets topped out during those periods and we run it down. In May/June and Oct./Nov. it's at its lowest. Administrator Bender said this is the unrestricted fund balance. If there are funds that are allocated for the budget or school, those would not be unrestricted. Paul said that it's what they call, "the tax effort". Sometimes they use gross and net interchangeably, but this is actually the net taxation, so Selectman Dargie was correct. Paul said in reference to the unrestricted fund balance, if we had a natural disaster, we would have to use that money first before getting any reimbursement from any federal or state agencies.

Selectman Labonte asked if it was the same safety net we used at the beginning of this year before we got out TAN loan. Chairman Daniels said yes.

Chairman Daniels said since he's been on the Board, we've have anywhere from 5% to the number that we have now. There are towns that he knows that are lower than the 5% and towns that far exceed what DRA is recommending. He agrees with Selectman Putnam that to the best of our ability, we should give back to the tax payers if we feel that we

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have enough in the reserves. Paul said in the fall when it's time to set the tax rate we can also revisit that number and adjust it from whatever the Board decides to do tonight.

Administrator Bender said if you use the \$750,000 the remaining balance would be \$3.7 million or 8.92% of the gross appropriations as shown on Paul's analysis.

**A motion was made by Selectman Putnam to use \$750,000 of the fund balance to reduce the tax rate. Seconded by Selectman Dudziak.** Selectman Labonte asked Paul if he sees the additional \$250,000 affecting any of the bonding rates. Paul said no. **All were in favor. The motion passed 5/0.** Administrator Bender said they would update the tax rate calculation and have it available at the Deliberative session.

### 6. DISCUSSIONS:

#### a) Solar Pilot Agreement

Administrator Bender handed out a potential revenue analysis. This summarized the lease agreement that the Selectmen have already approved and the Pilot as it's been presented to us. It's \$3,000 per mw and an 16mw project.

	Lease	PILOT	Total
Lease Option	7,500		7,500
Construction Term	59,810	48,000	107,810
Lease Years 1-5	598,100	249,794	847,894
Lease Years 6-10	657,910	275,793	933,703
Lease Years 11-20	1,435,440	640,687	2,076,127
Lease Years 21-25	777,530	371,181	1,148,711
Lease Renewal			-
Years 26 - 40	2,870,880	1,361,840	4,232,720
Total	6,407,170	2,947,295	9,354,465

Over the course of 40 years this will proved \$6.4 million in lease payments and with the pilot another \$2.9 million for a total potential revenue of over \$9 million. Looking at some of the warrant articles presented this year, Dispatch, Library, and some that Water Utilities has been talking about, it seems to him like we could use more projects like this.

Chairman Daniels invited Dominic LeBell, Granite Apollo to come up to answer questions. Selectman Dargie asked if the 2% per year the same is the same in their other recently signed other PILOT agreements. Dominic they were signed in November and they were at 2.5% escalation. Selectman Dargie asked how Dominic would feel if this Board came back and proposed 2.5%. Dominic said he isn't in a position to make that decision. Selectman Dargie asked if the other towns started at \$3,000 per MW? Dominic said yes. Selectman Dargie said he would be interested in exploring a negotiation of 2.5% to match the other town's agreement. Dominic said he would bring that to the rest of his team. They recently became aware of a Pilot agreement in Tamsworth where that agreement was at \$3,500 per MW but with no escalation. He believes that they are offering a fair deal.

Selectman Labonte researched solar pilot agreements and some ranged from \$5,000 to \$17,000 per mw depending on where you are. He didn't see any for \$3,000 MW. He isn't interested in jumping into a 40 year agreement and he objects to \$3,000 per MW. Chairman Daniels asked if Selectman's Labonte researched was in New Hampshire. Selectman Labonte said they were in Massachusetts. Selectman Dargie said he found two in New Hampshire, one was at \$2,640 and the other at \$2,800 but it was unclear as to what the escalator was. Dominic said Selectman Dargie may be referring to NH Solar Garden Pilot. Dominic said he thought that Assessor Marti Noel discussed some comparisons between the pilot and revenue. Marti clarified that they were wind farm pilots.

Rodny Richie, asked why they proceeded from public to private lands which was a similar situation in another town. Dominic said their intention with leasing the land was to secure an option during which time they would complete any number of diligence activities, (environmental studies, wetlands, vernal pools. DES, etc.). Their intention was not, at any point, to develop the entire 119.6 acres of town land, but rather to negotiate a lease on that land and determine what was in there that would be viable for the project. As far as bringing in some private land, that was the result of some discussions that we had with some people and an opportunity presented itself whereby additional land could be incorporated into the project that would allow us to go above and beyond and try to be more sensitive to the concerns in the area.

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Rodny said at the last meeting there was a discussion of what level of tax incentive the pilot would be. He thought it might be at a level of 10% of the potential tax available on that asset. Selectman Dargie said that was correct. Selectman Labonte said he came out with a calculation and if you were to go off the full value of \$518,000 per year and he used the \$48,000 would be approximately 10%. He just grabbed that number to do the math.

Rodny asked if it was a figure they should throw out or keep. Chairman Daniels said it was just a calculation and they heard from the Assessor that they were looking at the things that were similar with other renewable energy companies. Rodny said the warrant article that was passed provides for a long term contract for a solar farm. He didn't see where it included a tax incentive reduction of the potential tax. How did approval of that warrant article include this?

Administrator Bender said the lease itself includes documentation about the negotiation of the pilot. Selectman Labonte said he believes it said to approve a potential pilot and if a pilot can't be reached then it would be to pay real property taxes. Rodny said he isn't sure the voters knew that. Administrator Bender said that is how these projects get done. If a pilot isn't negotiated on this, they will look elsewhere. Dominic agreed, given the number mentioned earlier, it's unlikely that the project would be built.

Dominic said the pilot agreement is more of a function of NH state statutes regarding the pilot. That part of the statute allows for towns to negotiate contract agreements such as this with renewable energy projects. If both sides agree then they can extend that agreement beyond five years. Rodny indicated that there would be a public hearing before the pilot would be finally agreed to, what would be the intent of the meeting. Administrator Bender said prior to signing the agreement the town will hold a public hearing as required by statute, NH RSA 72:74 Payment in Lieu of Taxes. Once we have this agreement in place, and the Board has agreed to it we will have a public hearing for public input. Rodny asked would the Board be potentially not agreeing if people come to the public hearing and say they don't think it's a good idea?

Chairman Daniels said as with any public hearing, it should be for the Board to listen for the comments weighing in on the information we have and see if there is anything that would cause us to rethink the position we might have had. Rodny said he agrees with Administrator Bender assessment that \$9,354,465 over 40 years is better than nothing. Comparing that to the \$400 that we get for part of the private property is not a comparison. He hopes the Board makes the tax reduction incentive clear at the public hearing.

Chairman Daniels understand that what we are proposing is something that is less than 50% of what we could get, but the reality of the situation is that for 20 years we have gotten zero. To try to put a price on something that doesn't exist and that the town has before turned down the money to build the infrastructure that would make that property more viable. You are dealing with fictitious numbers. Rodny said everything he reads about property tax in NH says the lowest cost is on undeveloped property. We have gain by having that property remain undeveloped.

Selectman Labonte said in reference to the wind pilots, those were \$5,000 per MW and \$11,000 per MW. Marti said to clarified, \$11,000, \$5,000 and \$12,700 is correct. In total the town was \$12,476. One was a court ordered decision which is being reduced each year. Selectman Labonte said those number are still more than the \$3,000 we are being offered. Doing the math, you are only getting \$233,000 per year. It sets a precedent for any project that comes in because you would have to that same pilot of only 9 ¼ of what it's worth. Administrator Bender disagreed, you would set a standard of \$3,000 per MW.

Administrator Bender said he doesn't understand the calculation of trying to assess a value on all of the solar panels.. That is like saying we should go to all of our manufacturing companies and tax them, not just for their building and land, but all of their equipment as well, we just don't do that. Selectman Labonte said all of the pilots in Massachusetts tax the panels. Administrator Bender replied at the pilot. Selectman Labonte said they were a lot more than \$3,000, which he feels isn't a fair amount.

Marti said she previously had some discussion with an assessor in Massachusetts who oversees several of these pilot programs and one of the things he cautioned about is, yes they are a little bit higher, but they also include greater incentive on renewable energy credits and things that have more value than we can capture here in New Hampshire. You need to be careful when crossing over the state line, it may be six miles away but it's a whole different way of assessing property. Selectman Labonte he isn't saying go for the highest dollar you can get out of this, he repeated that \$3,000 is inadequate for a 40 year lease.

Dominic agreed with Marti that Massachusetts has a number of incentive programs with things called "adders" which inflates the price of electricity coming off of some of those projects. The PPA, the amount that the project sells its power



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er for has a relationship with the pilot. Getting higher power prices will generally allow for higher pilot payments. Bidding into competitive processes means that the power prices are going to be lower.

Mike Thorton, Milford resident asked if they considered a starting point and then profit sharing where the town could participate more fully as their revenues might increase. Chairman Daniels said that hasn't been part of any negotiations.

Selectman Dargie said he did research on some pilots in the past that were based on some sort of revenues. They've moved away from that and gone to the fixed rate. You want to lock in your numbers. Dominic said it's uncommon. Predictability is a large part of the financing behind these projects.

Administrator Bender going forward he would like to see, with the new legislation in NH for community pricing of electricity, is trying to find a way to work with Milford Spartan Solar when this is built so that we can purchase some of the solar power for use within the town. Dominic said they would be interested in that conversation, they would love to see this power stay local if it can.

Suzanne Fournier, Milford citizen, clarified that even if the project were to discontinue, Granite Apollo made a guarantee that the money will continue. Dominic said yes. Suzanne clarified that on the pilot terms, they can change if there is a decrease in the MW. If the project stops for some reason, then so does the pilot. Dominic said yes if they are no longer functioning. Administrator Bender said if the project ceased in its entirety then the solar panels would have to be removed for that clause to be effective.

Suzanne said you have predictability about the lease portion but nothing for the pilot. Dominic said that language is included in case of a natural disaster. Suzanne said \$6,000,000 is predictable but \$3,000,000 is not. She mentioned that the Hopkinton/Webster solar was originally a lot less and all on public land now it's at \$3,500 is almost all on private land in Webster, is this coincident? This one here started out with you using about 90 acres and you referred to a 20 mw project to include your studies. Now there is only 30 acres of public land and 60 acres of private land. Chairman Daniels asked Suzanne to move conversation back to the pilot and not with things that aren't any concern to Milford. Suzanne continued to make comparisons between Hopkinton/Webster and Milford. Chairman Daniels said we will be having a public hearing on this later, he told her that she was making more of a statement than a question.

Suzanne said the money that they are looking for in the pilot instead of \$400 taxable on private land, is because of the Current Use program. It's a conservation program instituted in New Hampshire to encourage farmers and forest lot owners to keep going with forestry and agriculture, not to switch swap over to development. Chairman Daniels asked Suzanne if she had a question. Suzanne said she wants to know why Granite Apollo is digging into current use land and telling towns that they are going to make millions. It's like gutting the current use program and why the coincident on these sites, it's sinful. Chairman Daniels reminded Suzanne that she is commenting again, and asked her to save that for the public hearing. We only want to get questions that people might have regarding the pilot, forget about the comparisons with other towns. Suzanne said that was very narrow thinking.

Chairman Daniels asked Suzanne that the narrow thinking was what? He asked if she was suggesting that it's narrow thinking on the part of the Board. Suzanne said it's narrow to say that this is not related, it's very much related. Selectman Putnam said his interpretation was that she was talking about the Board being narrow minded. Suzanne started to disagree and Chairman Daniels used his gavel to stop the conversation and gave Suzanne two minutes to wrap up.

Suzanne asked Dominic if they were targeting land in current use to purchase solar. Dominic said they were not targeting current use land. Land that was in current use status happened to be located in these projects as lands that could be incorporated into it. We heard at the start of this meeting, land regularly goes in and out of current use as towns, developers and citizens deem appropriate.

Administrator Bender said he would set up a public hearing but they also need more clarification on the 2% versus 2.5% and the starting point of \$3,000 per MW and if there is any flexibility on that. Selectman Dargie said he's comfortable with the \$3,000. He would like to go with the 2.5% that was modeled after the other pilots. Selectman Labonte would like more than \$3,000 and he would consider starting at \$5,000.

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

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

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

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

**9. APPROVAL OF FINAL MINUTES.** Selectman Putnam moved to approve the minutes of January 13, 2020 as amended. Seconded by Chairman Daniels. The motion passed 4-0-1 with Selectman Dudziak abstaining. Selectman Dargie moved to approve the minutes of January 13, 2020 as amended for the Budget and Bond Hearing. Seconded by Chairman Daniels. The motion passed 4-0-1 with Selectman Dudziak abstaining.

### 10. INFORMATION ITEMS REQUIRING NO DECISIONS.

**11. NOTICES.** Notices were read. Administrator Bender said at the February 10<sup>th</sup> meeting new Town Administrator John Shannon will be sitting at the Board table. He said it's been a pleasure to serve as Town Administrator for the Town of Milford. They've accomplished many things and he's enjoyed working here.

**12. NON-PUBLIC SESSION.** Selectman Dudziak made a motion to go into non-public in accordance with (RSA 91-A:3, II (c)) – Reputation. Selectman Dargie seconded. The motion passed 4/0.

**13. ADJOURNMENT:** Selectman Dudziak moved to adjourn at **7:00**. Seconded by Selectman Dargie. All were in favor. The motion passed 5/0.

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Gary Daniels, Chairman

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Laura Dudziak, Member

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Paul Dargie, Vice Chairman

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Chris Labonte, Member

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Mike Putnam, Member