

APPROVED
MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING
June 25, 2018

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

1. CALL TO ORDER, BOARD OF SELECTMEN INTRODUCTIONS & PUBLIC SPEAKING INSTRUCTIONS: Chairman Federico 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 Federico 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. – 2nd Public Hearing and vote – Mobility Device Use Policy –Chris Costantino and Andy Hughes – Andy gave an overview of what was discussed at the May 14, 2018 Board of Selectmen's meeting. This policy would address the use of Mobility Devices on town trails. The policy is based on the Americans with Disabilities Act (ADA) that took effect March 15, 2011. The definition and regulation to permit the use of mobility devices has been amended. The rule adopts a two-tiered approach to mobility devices, drawing distinctions between wheel- chairs and "other power-driven mobility devices" (OPDMDs). The DOJ requires that each group which owns a trail(s) "make reasonable modifications in its policies, to permit the use of OPDMDs by individuals with mobility disabilities. The Conservation Commission adopted specific guidelines and would like the Board to approve the policy.

Chairman Federico opened up the Public Hearing. Hearing no comments, he closed the public hearing at 5:33. Selectman Putnam made a motion to approve the Mobility Device Use Policy. Selectman Daniels seconded. All were in favor. The motion passed 4/0.

5:35 p.m. – Conservation Easement on BROX Community Lands – Chris Costantino
Presentation cancelled, more information is needed before presenting to the Board.

5:45 p.m. - Approval of Applications for Veterans Tax Credits, All Veterans Tax Credit, Elderly Exemptions, Land Use Change Tax, Denial of Property Abatements, and Timber Tax and "Intent to Cut" Changes. – Assessing Director Marti Noel.

Veterans Tax Credit RSA 72:28 2018

Ms. Noel recommended that (7) Standard Veterans Tax Credit applications be approved. The applications are in spouses name after death of Veteran who is receiving the tax credit. Selectman Daniels made a motion to approve the Veterans Tax Credit as recommended. Selectman Putnam seconded. All were in favor. The motion passed 4/0.

All Veterans Tax Credit RSA 72:28-b

Ms. Noel recommended that (1) All Veterans Tax Credit be approved. This was a warrant article approved in 2016. It is for \$300 dollars and the applicant qualifies for the credit. Selectman Putnam made a motion to approve the All Veterans Tax Credit as recommended. Selectman Daniels seconded. All were in favor. The motion passed 4/0.

Gil Archambault, Milford Resident asked how many Veterans receive the Veterans Tax. Marti said she didn't have that information with her but if she were to guess, less than 100 for the All Veterans Tax Credit and 650 for the Veterans Tax Credit.

Elderly Exemptions

Ms. Noel reviewed (4) elderly exemption applications, all applicants qualify. Selectman Putnam made a motion to approve the Elderly Exemptions Tax Credit as recommended. Selectman Daniels seconded. All were in favor. The motion passed 4/0.

Denial of Property Abatements

Ms. Noel presented (3) abatement applications, with the recommendation for denial but asked to remove one property at owner's request today. The property owner wishes to attend a future non-public session with the Board of Select-

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men. Selectman Daniels moved to approve for denial applications 1707 and 1709 as recommended. Selectman Putnam seconded. All were in favor. The motion passed 4/0.

Land Use Change Tax

Ms. Noel presented (8) parcels for approval. Map 45 Lots 3-3, 3-5, 3-47 & 3-50 (Autumn Oaks Subdivision New Homes), Map 50 lot 1, (a portion of the lot is being removed to support new dwelling, Map 53 Lot 67-2 (expansion of residential use required additional land need to be removed from current use), and Map 5-3 (recently purchased parcel. Selectman Daniels moved to approve Land Use Change Tax parcels as recommended. Selectman Putnam seconded. All were in favor. The motion passed 4/0.

Timber Tax and “Intent to Cut” Changes.

Ms Noel gave the Board an overview of legislation change in timber tax and intent to cut law effective September 1, 2018. The Municipality can waive yield tax on land owned by the Municipality. They also changed approval for intent to cut from 15 days from 30 days. We usually meet the public requirement for notice, but 15 days may be tough to meet. Some communities give the Assessor the ability to sign on those occasions when it doesn’t make the time constraints of the statute. Selectman Dargie request that language is written for the next meeting that allows authorization for the Assessor to sign. Marti said she would have it ready.

Selectman Daniels asked if we look at town forest that may be under an easement of the society of the protection of forest, is it considered something that could be waived? Marti cited 79:3-b Waiver of Yield Tax by Municipality in Certain Cases. When timber harvesting is conducted on land owned by, and located in, a municipality, the municipality may waive the yield tax, but shall report the location, species, and volume of wood and timber cut to the commissioner of revenue administration. Selectman Daniels asked if it has to be done on each cut or can the Board vote to waive the tax on anything so they only have to deal with it once. Marti said she doesn’t know, but would guess you would have to vote individually so as not to override a previous vote on something that you really wanted to tax.

Selectman Dargie asked where the tax money goes. Marti said the general fund. Selectman Dargie said he would be in favor of doing it once. He asked that Marti look into it for further clarification. Marti said she would check with the DRA.

6:00 p.m. – Pumpkin Festival Update – Wade Scott Campbell and Carol Gates. Wade gave the Board a brief overview of how the Pumpkin Festival planning was going. He said they are happy where they are. They secured David Freel as the electrician. They will be having a meeting with the building and electrical inspectors as well as the Fire Department. Vendors are still coming in. There is about \$24,000 in the bank. Insurance will be all set tomorrow. Selectman Dargie asked what items are they most concerned about. Wade said parking and vendors wanting to use additional space as well as parking for musicians. They will let the Board know if there are any other issues that come up. Carol said that vendors have been contacted and there are some new ones.

Selectman Daniels asked how big was the Pumpkin Festival committee. Wade said 5 board members and 6 or 7 people that have participated at the meetings. They will need many more for the festival itself. Chairman Federico asked when was the next meeting. Wade said July 10th in the Community Room at the Police Station at 7:00 p.m. All other meetings are the 1st Wednesday of the month, same place and time. Chairman Federico asked if there is anything they could be doing that would help at this time. Wade said he’s compiling a list. Carol said the primary thing would be if people could donate. Businesses that would like to sponsor could be directed to Carol and Wade or the Lions Rotary Club; the money would be helpful as there wasn’t any seed money to start with. We are trying to reach as many as we can. Volunteers helping at the festival would be helpful. We will accept all help at any time. Chairman Federico asked if they are utilizing the volunteer groups. Wade said he has been in contact with the soccer booster club and there will be more clubs that will be utilized as they get closer.

Selectman Dargie asked if they have a tentative schedule yet for the different venues and days that things are happening. Carol said it will be reviewing the final markup at the next meeting. Gil Archambault, Milford resident asked that they make sure the Police Department gets notification ahead of schedule due to officers being on vacation. They need to be covered 100% by the Police Department. Carole said they are planning another meeting that will cover that.

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

Chris Labonte, Milford resident asked what the difference would be in regards to the steel plates, putting them on the

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Hartshorne Bridge vs. what they did on Perry Road. Why would you need engineering? Chairman Federico said he didn't know which is why he tasked Rick to give them additional information. Chris asked what it's cost us so far on the BROX Gravel Operation versus what we've brought in. Chairman Federico said he will get him the breakdown.

Chairman Federico said he would allow comments on the flying of the Pride flag on the oval at this time.

Susan Kater, Milford resident feels that it's a good idea to just allow the American flags on the Oval because once you allow one group in, another is going to want the same thing. You will have to do a case by case and you run the risk of being sued if you approve one over the other. She is nervous of groups that might come in that are very repugnant to any resident of this town. She thinks it's a better idea if we restrict flags and signage on the Oval. It may be a 1st amendment issue, but we need some type of control.

Peggy Seward, Milford resident thanked Selectman Daniels for looking into information about the VFW and the pole and flags and how they replace them. We used to have controversy about signs on the Oval, who was and was not allowed to utilize the Oval for signs. A policy was put in place that it could be used for non-profits if they request it 30 days in advance and the Board approved it. She suggests that they come up with a policy for any flags of any type that would need to be approved on any town property. The bricks on the Oval are there to honor and remember everyone, the American Flag fly's every day and the American flags fly on the 22 poles. They fly on Flag Day, July 4th and Veterans Day and Memorial Day. She has never seen any other flag utilize those poles. She suggests that before the Board approve this, they need to figure out what they are getting into. She said that days of proclamations are great, whether it is one day or thirty days, and it can be done to honor anyone. She suggests having two flag poles somewhere in town, not on the Oval where anyone could ask that they utilize it to honor something.

Gil Archambault, Milford resident also thanked Selectman Daniels. He suggests calling the Oval, The Memorial Park because of the bricks, the American flag and the memorial. He agrees with Peggy about putting a policy in place about flags.

Shayne Bernard, Milford resident excited that we accepted the proclamation for the month of June. She feels flying the flag one day a year isn't a big deal. We have trans kids, trans adults, lesbian and bisexual families in town and it's all inclusive. In regards to the Oval and talking about using it as a memorial, it's used in celebrating Christmas and Easter, it isn't just one thing, we are celebrating holidays. To the LBGTQ this is a big holiday. Stonewall was a big break for their rights. This year on June 30th will be Nashua's first gay pride parade. It would be great to see both come in line together as communities and celebrate together.

Brendon Philbrick, Milford property owner, non-resident said he defends the rich, the poor, the young and the old, black and white and sexuality is never called into question. He said that if you can't put the nativity out on the Oval, you shouldn't put the gay pride flag out there. He said, Selectman Dargie is free to have a gay pride tattoo on his forehead and wear pride tee shirts, and to pass them out, but he was wondering if anyone has spoken to town council about this. He also doesn't think anyone has considered calling the local government center. He thinks the proper avenue would be to have voters sign a certified petition asking the town if they would like to have that flag put on their Oval. He mentioned that the Supreme Court ruled that the florist doesn't have to serve the gay wedding because it would violate their Christian conscience. He said there are a lot of Christian tax payers wouldn't like that flag on the Oval. He feels town council needs to be brought in before any law suits come in.

Gil Archambault, Milford resident said it's a good thing the Board voted 4/1 against flying the flag. In a recent meeting at the VFW they were upset about the flag pole to fly the Pride flag. In regards to the 22 flag poles, who's going to put them up and take them down? The 22 flags when flown, are not flown 24 hours a day, they are put out in the morning and taken down at night.

Tina Landell, Milford resident also thanked Selectman Daniels for his work on the flag effort. She was in Concord 9 years ago when a lot of discussion took place on gay marriage. People warned that if gay marriage were to be passed, it would result in many things happening. The people who testified for gay marriage said that would never happen. But things have happened all over the country. We see people who march under the rainbow flag, marginalizing anyone who disagrees with them, and using the law to do it. There is a bill coming down from California, bill 2943 that will ban books, shut down churches and close psychiatric offices all over the state, basically anyone who disagrees with the LBGTQ agenda. If we are looking to have a pluralistic society, then let's have one. If we have groups that

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want to marginalize anyone who disagrees with them and use the law to bring harm, take businesses away, your homes, your life's savings, and it's happened all over the country, then we need to, as good people in Milford say no. We do support a loving and pluralistic society and your welcome in my house for dinner anytime, we can reach out to each other in love. If we want to maintain a pluralistic society then we have to oppose the political agenda of this group.

George Hoyt, Milford resident thanked Selectman Daniels for rounding up the bigots at the town hall today. Chairman Federico stopped George and told him that he was being disrespectful to the Board, and those in the audience and Selectman Daniels. He asked George to leave and closed public comments.

4. DECISIONS.

a) **CONSENT CALENDAR.** Chairman Federico asked if there were any items to be removed from the Consent Calendar for discussion. There were no items removed for discussion. Selectman Putnam moved to approve the Consent Calendar as presented. Selectman Daniels seconded. All were in favor. The motion passed 4/0.

- 1) Acceptance and Appropriation of Unanticipated Revenues Under \$10,000 (31:95(b))
 - Donation to the Milford Police Department for the purchase of a ballistic shield and helmet from Shawn and Staci Walsh - \$2,136.10
- 2) Request for approval of Emergency Operations Center Designation

b) OTHER DECISIONS.

- 1) N/A

5. TOWN STATUS REPORT – Administrator Bender

a) **Fire Department Buildings Contract** - All contracts have been reviewed and amended by Primex and Attorney Drescher. The contract with Port One Architects, Inc. has been finalized and is ready for signature. The contracts with Eckman Construction Company, Inc. for construction management and general conditions for construction are very close to being finalized. We are working through the last few details with Eckman and Primex but we are confident that they will be resolved very soon. We have conceptual agreement on both of their contracts. All contracts are similar in style and content to those for the Ambulance facility. He requesting board authorization to sign the contracts so we can start the project in July. Selectman Putnam made a motion to allow Administrator Bender to sign the contracts for the Fire Department renovations. Selectman Daniels seconded. All were in favor. The motion passed 4/0.

b) **Paving Update- Check website for project updates and details:** Administrator Bender gave an update for the 2018 season. This information will be put on the town's web site.

Clinton Street

- Water Department began service taps on June 18
- Drainage/catch basin replacement
- Sidewalk and curb replacement
- Street reclamation and paving scheduled week of July 16 & 23.

Ponemah Hill Road –

- Drainage and culvert replacement started week of June 18
- Road reclamation and paving scheduled for week of July 9
- Guardrail replacement

King & George Street

- Road reclamation scheduled for week of July 16
- Drainage work scheduled for week of July 23
- Water Department service work scheduled to start week of July 30
- Paving planned for end of August

Osgood Road

- Road repairs, drainage and reclamation work scheduled for week of July 23
- Shim coat and chip seal from Armory to Burns
- Pave Burns to Noons Quarry

Melendy Road/Ball Hill Road

- Road repairs Armory to Annand Drive
- Shim coat and ship seal in August

Nashua Street – 1 week not scheduled

- Riverside Cemetery to Walgreens
- Sidewalk and curb work – additional sidewalk to be added next to Burger King.
- Mill and Overlay with alternate lane closures
- Elm Street – 1 week not scheduled**
- Wilton Road to Hitchiner Way
- Mill and Overlay with alternate lane closures

All road closures will be on the website and nixle. Selectman Daniels noted that the Governors council approved some work at the exit going from 101 to 101a going towards Nashua. They will be putting in an additional lane on 101 where Wilderness Outfitters was. He doesn't know when it will start.

Selectman Putnam asked if they were planning to do anything from Suburban Propane up to Erving Gas Station. The traffic gets really backed up. Selectman Daniels said he hasn't heard anything.

6. DISCUSSIONS

a) Hartshorne Bridge Discussion – The Board walked through the Hartshorne Bridge to review its condition. The bridge is going to cost \$580,000 if we were to replace it with the State plan. Selectman Putnam said to put some steel over it, bring it down to one lane at the lowest weight and add some guard rails.

Chairman Federico said residents that use the bridge on a daily basis expressed concerns. He would like to mitigate the town's liability. He asked Rick Riendeau, Public Works Director if they could put up guard rails and make it one lane. Rick said it's been a 6 ton bridge for a long time. He doesn't know how long it will last. There are only a couple houses in town that use it. He feels there are other bridges in town that need more work, we need the money for them and it's a lot of money for such a small bridge.

Selectman Dargie asked if Rick had a rough estimate of what a patch job would cost to keep it going. He isn't favor of doing a whole replacement, it isn't worth a ½ million dollars. Even a \$100,000 is excessive but he's concerned about the corner. If we close the bridge we may have to reconstruct the intersection to make it a T intersection. Rick said it's about \$60,000 just to do permit work to the State and Wetlands. It's going to be costly either way. The State just gave him information that the Mason Road Bridge over Greatbrook and Burns Hill is getting red listed. It's an important bridge and is already at 50% section lost. Administrator Bender said that there are somethings they can do as replacement in kind. If there is a failing culvert we can replace it with the same size culvert but Hartshorne Bridge is a stone laid bridge built in 1910. It has to be done with either reinforced concrete pipe or a prefab structure.

Selectman Dargie asked what would happen if we just ignored it. Administrator Bender said the Municipality would have to accept the liability. Chairman Federico asked Rick would it still cost \$60,000 in permits and would mitigating our liability if we reduced it to one lane, dropped the weight limit and add some guard rails? Rick said it's already at the lowest weight limit. Selectman Dargie said he would like an estimate on what it would take to rebuild the intersection on Rt. 13 closest to the town next to Joslin Road. Administrator Bender said the intersection wouldn't change because of the bridge. Chairman Federico said it would be a lot less use of the bridge. Selectman Putnam said the bridge is solid and he doesn't see any problem with leaving it the way it is. He asked Rick if they needed a permit to put steel on the bridge. Rick said they would have to do some engineering but he doesn't think steel is a good fix. The engineers don't like to plate like that. Chairman Federico asked Rick to get some numbers to re-work the intersection and if there is a ½ way in between repair vs. doing nothing, and see what permit and engineering we would need before we make any decisions.

b) 127 Elm Street Discussion – Tabled until July 9th.

c) Request to fly Pride Flags on the Oval utilizing the already existing footings currently in place around the perimeter of the Oval on Saturday, June 30th-

Chairman Federico opened this discussion for Board comments. Selectman Dargie said the Oval is a traditional public forum which is an area with the highest level of free speech recognized by the courts. People can go to the Oval, walk around, carry flags and demonstrate on just about anything and the courts would support them. Traditionally public forums allow reasonable time, place and manner restrictions on things. It's limited to things

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that have a public purpose for doing it. When something is introduced as a first thing, you have to go along and provide alternative things. Last fall, we had Red Ribbon Week where students were allowed to hang red ribbons on the bandstand to draw attention to a topic. Hanging Pride flags on the bandstand is exactly like that. It's a symbol of a topic. A court would specify that hanging a Pride flag would be consistent to hanging a red ribbon on the band stand and it would be approved. The precedent was already set for that. Using the 22 flag footings probably wouldn't be approved because it's a continuation of something that has already occurred. He is requesting that we hang Pride flags on the bandstand on Saturday, June 30th. They would be put up in the morning and taken down in the afternoon. It would only be for one day.

Chairman Federico this topic certainly gets a lot of ink and traffic. His opposition to any of this has nothing to do with LBGTQ community; he would be in favor of hanging the flag on the gazebo. What he doesn't want is the Nazi flag to be hung over the same gazebo under the same precedence. We can't say that it won't happen and if we allow one thing, we have to allow the other. He doesn't believe that this Municipal Government at a town level, specifically our Oval, should be a canvas for anyone's cause, worthwhile or not. We fly the American flag like we've done since the Oval was built. We say the pledge of allegiance at the beginning of the meeting and our kids say it before school day. In this case on the Oval and on Town property when we don't have an area that's designated for causes, we shouldn't just put one up. It has nothing to do with this cause; it has to do with what comes later. He doesn't want to sit here and say no to the white supremacist or neo Nazi's because then he's gotten this town in a law suit.

Selectman Daniels thanked Selectman Dargie for taking the 22 footings off the table because he feels it would have set precedence. Until we have a policy, he would not support that. He also agrees that the Oval is public property, common space. He's noticed reading through social media, that things have been twisted and need to be clarified, specifically if we grant authorization for something. Authorization is different than supporting or sponsoring something and should not be misconstrued as the Board supporting or opposing any activity that we authorize out there. In the past we have allowed politicians to hold signs and wave, around Christmas there have been living nativity sets, and we allow CAST to put their red ribbons on the Oval to bring awareness of drug abuse by teenagers. The role of government is to protect the rights of those who wish to exercise their freedom of expression. We are not doing this to support, we are just authorizing their activity on public property. That's the way it should be viewed by this Board. Individually we may have our own positions on whatever activity takes place out there, but as a Board and governing body, what we are doing by authorize something is upholding the constitutional rights of those making the request to express their freedom as granted to them under the first amendment. The Board does however, have discretion over how that property is used and we've shown that in the past by not allowing stakes or wires to be put into the ground on the Oval. He couldn't find any evidence of the flag poles and footings ever been used by any organizations, it would be precedence presence and the Board would need to have a discussion about that. Knowing that this group wants to do something this month, if we are going to do anything he would be in favor of authorizing them to use the Oval on the 30th of June for activities as in past practices like holding signs, banners or flags, to hang signs, banners or flags on the gazebo as CAST was allowed to do or to place ribbons around the lamp posts or trees around the oval. All those things, we have allowed in the past. He doesn't think that we should break from that practice because we start violating people's constitutional rights.

Chairman Federico clarified that Selectman Daniels is ok with the flags being hung on the bandstand, with people in assembly or on the bandstand for the day. Selectman Daniels said CAST put ribbons up but didn't necessarily have people standing out there. If people wish to stand out there with their flags and signs, like politicians do or wish to put things on the bandstand they should be allowed to do that as well.

Selectman Putnam agrees with Selectman Daniels. He has lots of friends that are members of the gay community and it's about their constitutional rights. He isn't going to tell people how to run their lives. He isn't going to pass judgement. He believes if we open this can of worms, it will turn into a can of worms. He doesn't want to see it happen to this town.

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Selectman Dargie made a motion that individuals be allowed to put Pride flags on the bandstand on Saturday, June 30, 2018 from 8 am until 5 pm and people be allowed to congregate on the Oval in celebration of Gay Pride month on that Saturday. Chairman Federico asked if there was going to be an assembly on the Oval? Do we require a permit for the Oval? Selectman Dargie said we do not. He recommends the assembly would be from 12:00 to 12:30 so that people can participate and to Nashua for their assembly at 2:00. Selectman Daniels added that everything be taken down by 5:00 so that DPW is not responsible for cleaning up.

Selectman Daniels said because there has been a big issue about this, he would expect that other groups will be coming in and requesting their day and month and he would hope that the Board look at this as not supporting or opposing but upholding someone's constitutional rights to express their rights under the first amendment.

A motion was made by Selectman Dargie and seconded by Selectman Daniels to allow individuals to put Pride flags on the bandstand on Saturday June 30, 2018 from 8 am until 5 pm, and people be allowed to congregate on the Oval in celebration of Gay Pride month on that Saturday. Also allowing an assembly from 12:00 until approximately 12:30 and requesting that everything be taken down by 5:00 pm. The motion passed 3/1 with Chairman Federico opposed.

7. SELECTMEN'S REPORTS/DISCUSSIONS.

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

Selectman Dargie said the Recreation Commission has many activities planned this summer and will be fixing dug-outs at Shepard's Park.

Selectman Daniels said the Recycling Committee will be having a float in the Labor Day Parade.

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

Note: At the June 11th non-public meeting, the Board of Selectmen voted to unseal the non-public minutes of the May 29, 2018 meeting under (RSA 91-A:3, II(c)) Reputation

8. APPROVAL OF FINAL MINUTES. Selectman Dargie moved to approve the minutes of June 11, 2018 as amended. Selectman Daniels seconded. All were in favor. The motion passed 4/0.

9. INFORMATION ITEMS REQUIRING NO DECISIONS.

10. NOTICES. Chairman Federico read the notices.

11. NON-PUBLIC SESSION. Selectman Daniels made a motion to enter into non-public meeting at 6:55 in accordance for Approval of non-public minutes (RSA 91-A:3, II(e)) Legal May 30, 2018 and (RSA 91-A:3, II(e)) Legal June 11, 2018 and review of non-public minutes for unsealing January 5, 2015, January 26, 2015, May 11, 2015 and July 27, 2015. Selectman Putnam seconded. All were in favor. The motion passed by roll call vote 4/0 Selectman Dargie – yes, Selectman Daniels – yes, Selectman Putnam – yes and Chairman Federico – yes.

12. ADJOURNMENT: Selectman Dargie moved to adjourn at 7:05 p.m. Selectman Putnam seconded. All were in favor. The motion passed 4/0.

Kevin Federico, Chairman

Gary Daniels, Vice Chairman

Mike Putnam, Member

EXCUSED

Laura Dudziak, Member

Paul Dargie, Member