

APPROVED
MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING 5TH MONDAY FORUM
August 29, 2022

PRESENT: Paul Dargie, Chairman Mark Bender, Town Administrator
Tim Finan, Vice Chairman Andy Kouropoulos, Videographer
Gary Daniels, Member
Laura Dudziak, Member
David Freel, Member

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

Chairman Dargie called the public meeting to order at 7:00 p.m., introduced Board members, and then led the audience in the Pledge of Allegiance.

2. APPOINTMENT: (Approximate times)

7:00 p.m. OPEN FORUM

Katherine Kokko, a Milford resident, commented on an e-mail she received from Chairman Dargie explaining the reasons for going into non-public on August 12, 2022. Ms. Kokko cited RSA 91-A that the minutes of the meeting will spell out the need for that emergency meeting. She feels that the minutes were not correct in spelling out the reason for the emergency. She stated that the entire emergency meeting was a "public meeting" with a non-public session, therefore the entire meeting must be explained. She feels that this Board violated 91-A and the public trust. She feels that the Board's reading is narrow and the court isn't going to agree with it.

Chairman Dargie disagrees with Ms. Kokko. It makes no sense to have a topic that is considered non-public due to its reputation in public. The topic needs to be kept sealed. Ms. Kokko said if that is the Board's decision it will need to be taken to another authority to ask that question because it's not the correct interpretation of that law.

There were no other public comments at this time. The open forum is now closed.

3. DECISIONS

a. CONSENT CALENDAR

- 1) Acceptance and Appropriation of Gifts of Property Under \$5,000 (31:95(e)) Donation of 3 Dutch Elm Disease resistant trees to Milford Conservation from Bill Widmer - \$1,480.
- 2) Approval of Intent to Cut, Map 41 Lot 38-1.

Selectman Daniels made a motion to accept the consent calendar. Seconded by Selectman Finan. All were in favor. The motion passed 4/0.

b. OTHER DECISIONS

1. Decision to Update the Current Stormwater Ordinance

Lincoln Daley, Community Development Director said this document will evolve, it isn't meant to be a stagnant document. This document is difficult as it's mandated through the MS4 permit and we need to comply with it. He feels that this is a good draft ordinance to work from. He reviewed some points brought up over the last few meetings:

Reference f. 1. b) on page 3 - references 10,000 square feet within 100 feet of existing surface waters, including, ponds, rivers, etc. The major water body is the Souhegan river and there is an act that governs the protection of that river.

Exemption list f. 3. a) on page 3 - a concern was raised about agricultural and forestry practices, they are exempt which has been voiced at several meetings.

Best Management Practices – This is a standard language. We are not going to dictate this, but there are cases in which people don't play by the rules sometimes. This is a way to ensure that they follow the rules.

Use of an Engineer – When you wire a home, you want a licensed person to inspect it. An acre is a large area, and we are looking to ensure that all developments are done in a safe way to protect the land owners and abutters. An engineer will work with the property owner, it may cost a little more, but it's better to have a professional design plan that meets the criteria of this permit.

Annual Report - We will work on a template to minimize that impact. It will require staff to do additional administrative services and review to make sure what's been done on the property is consistent with the permit. It's a way for us to work with the applicant. If you are disturbing more than one acre, it's applicable to do this.

Selectman Daniels referenced a document from 2012 – 2013 that identified requirements. He asked for a side-by-side with that document and this current one and didn't receive one. Mr. Daley said it would be an apple to oranges comparison.

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This is a coherent and applicable document. It's a working document used by many communities at this time. It was designed with coalition professionals who work at the state level. It complies with the ordinance and has been tested. It has to be done this year.

Selectman Freel asked for engineering costs, what we spend on engineering sub-contractor versus what we are going to spend. Mr. Daley said that was a different discussion. Selectman Freel said he isn't going to vote for this until he gets all the information he needs. They focused on the acreage and he didn't know he could change anything else in the document. We have time; we should work on it more now rather than later. Mr. Daley disagrees with that. He repeated that the document was comprised of professionals of two coalitions within this year. They extract what is required in each community. He doesn't know what else can come through to alter this to the Board's satisfaction. The town engineer should be separate from this ordinance as he has many more responsibilities other than this ordinance.

Selectman Finan asked how many cases are expected within a given year that this would apply to. Mr. Daley said about five per year. This is for smaller projects. We can keep good records and provide financial added costs to the applicant. Chairman Dargie said the document is in good shape. It will be possible it may need revisions at some point but he's okay with it as is.

Administrator Bender said he went to some of the coalition meetings. He was impressed with the work that was being done. Having a coalition of towns working on this to provide one cohesive document that they can all stand behind and defend in front of the State and the EPA is very rewarding. This document puts us in the place that we need to be in now. Things can be added easily. EPA rules and regulations may change going forward and we will need to review them with other towns. The Board can vote on it tonight or we can go through two public hearings again. We have the support of several planning commissions. Mr. Daley said we have the support of NH DES also. This is a document in its final form. Administrator Bender said we need this document whether we have an engineer or not.

Selectman Daniels is asking for an analysis of the other document versus what is in it now. He's looking for justification that this doesn't go beyond the requirements needed. Selectman Freel agrees with Selectman Daniels.

Administrator Bender said the point of stormwater management is to improve the quality of the water going into rivers. Selectman Daniels is concerned about what will happen to someone's land when restrictions are put on. We have been waiting for DES and Fish and Game for over two years to fix something, it takes time. They don't always act in the best interest of the town. This Board was elected to do what is best for the town.

Mr. Daley said it's worth noting that we already have some of these regulations in place. Mr. Daley provided an additional discussion on the requirements. Property owners already have to manage stormwater on their properties. This information is based on the 2013, 2017, and revised 2020 MS1 permits. The coalition is comprised of scientists and they examine what is required for a stormwater ordinance. He puts great value on them. Thirty or forty communities use this. Selectman Daniels still has concerns.

Administrator Bender said he's for limited government and concerned about government overreach like everyone else. He reminded the Board about Gruenale and Fletcher sites to know what some people will do to their property if there is no oversight. Problems like those create issues for the town.

Selectman Freel isn't against the document, he just wants more information. Administrator Bender asked what guidelines were used to draft this. Mr. Daley said it was based partly on the Massachusetts documents and the 2017 permit.

Ms. Kokko referenced the second bullet referring to 10,000 square feet as the only thing that could be changed. Last week she used another example of the 2012 standard which is the required minimum of the guidelines did not require that every permit or application go through this process but left it up to the Planning Board to decide when and if it was needed. That is the distinction she is looking for.

Mr. Daley asked why Ms. Kokko was referring to the 2012 permit when it is the 2017 permit. Ms. Kokko said it's the 2012 guidelines on which the permit is based. Mr. Daley said they are using the 2017 and revised 2020 permits which is what this is based on. Ms. Kokko said the MS4 permit for 2020 refers back to the guidelines developed in 2012.

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Chairman Dargie said they are not taking a vote on this tonight. They will have to start over with the public hearings sometime in September. Mr. Daley will provide additional information to the Board. The information will be placed on the town web site.

2. Final IMA for the Provision of Communications 2023 – 2027

Captain Frye presented the Final IMA. Selectman Daniels wanted the statement in section 5. C) on page 5 changed from “the quarterly bills will be paid on 15 January, 1 April, 1 July, and 1 October of the year for which the services are rendered” changed to “on or before”.

Captain Frye said for the last 30 years, we’ve never paid a bill on the 1st. They pay within the month. He originally changed the first date to January 15th because Selectman Daniels previously asked for it to be changed from January 1st to January 15th.

Chairman Dargie asked if they would be willing to sign it as it is now. If not, they have to go back to all the other towns for the change. Captain Frye said their next meeting is in September, he will bring it back to the Board of Governors, make the argument, and then bring it back to the Board.

Administrator Bender feels that this is an unnecessary change. Director Anderson said each community is sent their invoice 30 days before that deadline. The communities have a few weeks to cut their checks. If the date is on a weekend, all towns are closed and the deposits are made on the following Monday.

Selectman Finan referenced section 6. B) on page 5, Presentation of Annual Operating Budget; and asked what the point was calling out anything more than \$10,000 separately if it requires the same 2/3 vote. It looks like the same requirement. Captain Frye said it’s the same requirement. Administrator Bender said the IMA previously stated that Milford had two votes on any financial matter and now they have two votes on any matter. Selectman Finan said as it’s written, it’s harmless, just redundant.

Selectman Finan referenced section 8. B) on page 7, Items acquired by the Center during its operation; and asked for clarification on what “proportionately”. Captain said Milford gets 71%.

Selectman Finan referenced section 9. E) on page 9, Withdrawal and non-renewal; and asked for clarification on rebates or credits. Captain Frye said it has to do with insurance. We’ve never received a separate item on this; it usually gets lumped into surplus. It previously stated that if you left, you get none of the surpluses but the towns voted to get surplus no matter what town leaves. He explained what the surplus was per percentage.

Selectman Freel referenced section 9. D) I. on page 9; and asked if you sign a five-year agreement if you left early, does that mean you are responsible for the remaining years of the contract or just that year? Captain Frye said just that year.

Selectman Finan said all appendices are empty. Captain Frye said they are working on those documents and they are still trying to figure out who owns what. These will be updated when we figure it out.

Selectman Freel asked if all Boards were going to sit down to discuss this. Chairman Dargie said that would be if we were going to work out a 10 or 20-year agreement. We would like to complete this one and move forward.

Selectman Finan said the agreement references the appendices, we can’t just sign this without this filled out. Director Anderson explained what the appendices would require. If MACC Base dissolved, everything would be broken up as outlined in the appendix per the percentages. If one town leaves, they forfeit its rights to the equipment. All the towns were to leave at the same time for MACC Base to dissolve.

Captain Frye said the appendix is a working document, they won’t be coming back every 6 months if they change. Selectman Finan suggests that the appendix reference state, “as amended”. Director Anderson explained the types of equipment and consoles in MACC Base.

Selectman Daniels suggested that instead of putting items in the appendix in this document, reference a “living” document that has equipment listed in it as we do with fines as we do at the transfer station. Once the IMA is signed off, they can continue to work on the other document. Captain Frye feels that the appendixes shouldn’t be part of the IMA, just in the policy.

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4. APPROVAL OF FINAL MINUTES – August 12, 2022

There was discussion about including a statement in the minutes about why we went into an emergency non-public meeting. It was determined that the minutes were correct as presented.

Selectman Freel made a motion to approve the Minutes of August 12, 2022. Seconded by Selectman Finan. The motion passed 3/1 with Selectman Daniels opposed.

5. NOTICES

6. NON-PUBLIC SESSION – N/A

7. ADJOURNMENT: Selectman Finan moved to adjourn at 8:15. Seconded by Selectman Daniels. All were in favor. The motion passed 4/0.

Paul Dargie, Chairman

Gary Daniels, Member

Tim Finan, Vice Chairman

Laura Dudziak, Member

Dave Freel, Member