

APPROVED
MINUTES OF THE MILFORD BOARD OF SELECTMEN MEETING
March 13, 2017

PRESENT: Mark Fougere, Chairman
Kevin Federico, Vice Chairman
Gary Daniels, Member
Mike Putnam, Member
Katherine Bauer, Member
Mark Bender, Town Administrator
Darlene J. Bouffard, Recording Secretary
Mitchell Hemmer, Videographer

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

INSTRUCTIONS: After the 5:00 p.m. non-public session was adjourned, Chairman Fougere 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 Fougere 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. Chairman Fougere announced that in non-public session, a personnel matter was discussed and one decision was made.

2. APPOINTMENTS:

5:00 p.m. – Non-Public Session (RSA 91-A:3,II(e)) – Personnel. Selectman Putnam moved to enter into non-public session at 5:00 p.m. in accordance with RSA 91-A3,II(a) – Personnel. Selectman Bauer seconded. All were in favor. Motion passed 5/0. After discussion, Selectman Putnam moved to come out of non-public session at 5:20 p.m. Vice Chairman Federico seconded. All were in favor. Motion passed 5/0. Selectman Putnam moved to seal the minutes of the non-public session. Selectman Daniels seconded. All were in favor. Motion passed 5/0. Chairman Fougere announced that in non-public session the Board discussed a personnel issue and one decision was made.

5:30 p.m. – Presentation to Kathy Bauer. Selectman Bauer has chosen not to run for another term as Selectmen, Chairman Fougere indicated she has been dedicated to Milford for many years. Chairman Fougere read a resolution for Kathy Bauer’s service and dedication to the Town of Milford over the years, thanking her for her service and presenting her with a gift and flowers. Selectman Bauer stated it has truly been an honor to serve the town all these years, she said she is honored and it has been a pleasure to serve with these selectmen and town administrator.

5:40 p.m. – Proclamation – Commemoration of the 50th Anniversary of the Vietnam War. Karen Blood, Daughters of the American Revolution, asked the Town of Milford to commemorate the 50th anniversary of the ending of military involvement in Vietnam. This commemoration includes both Prisoner’s of War (POWs) and Missing in Action (MIA) soldiers and is to thank and honor them and their families. Ms. Blood requested that March 30, 2017 be designated as Welcome Home Vietnam Veterans Day. She requested that on March 30, the town fly the commemorative flag on the town flagpole and that the following proclamation be made. Chairman Fougere read the proclamation as follows:

THE TOWN OF MILFORD NH

Whereas, over fifty years ago our nation ended military involvement in the Republic of South Vietnam, thus ending military involvement in what was the longest war in our country’s history; and
Whereas, it is important to honor the men and women who served and the 58,260 men and women who gave their lives; and
Whereas, since their return, these veterans have contributed tremendously to their communities, their states and the nation, and
Whereas, citizens of the Town of Milford must never forget the pain and suffering that lingers today for the men and women who fought with honor and distinction, in the name of freedom and democracy for all, and
Whereas, the State of New Hampshire has enacted Senate Bill 398 into law, declaring March 30 the date of the final withdrawal of U.S. troops from Vietnam, to be “welcome Home Veteran’s Day”; and
Whereas, it is never too late to pay tribute to the men and women of the Town of Milford and the State of New Hampshire who answered the call of duty with courage and valor; and

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1 Whereas, we should strive to live up to their example by showing our Vietnam veterans, their families and
2 all of the men and women who have served our country the fullest respect and support of a grate-
3 ful town, state and nation;

4 Now, Therefore, we the Board of Selectmen for the Town of Milford, do hereby proclaim March 30 to be:
5 WELCOME HOME VIETNAM VETERANS DAY
6

7 The Board of Selectmen agreed to fly the flag for one week beginning March 29, 2017 at 6:00
8 p.m. through April 5, 2017. Selectman Daniels moved to approve. Vice Chairman Federico se-
9 cunded. All were in favor. Motion passed 5/0.

10
11 It was noted that one of the selectmen will be at the March 29 raising of the commemorative flag. Ms. Blood indi-
12 cated that this is a public event, all Vietnam veterans and the public are welcome at the oval for the commemoration.
13

14 **5:50 p.m. – 2016 Property Abatement Applications – Abatement Request, Practice Fire Drill Map 47, Lot 31.**
15 Town Assessor Marti Noel requested the Board to make an exception for a property (Map 47 Lot 31) that they were
16 donating to the town but to allow the building to not be taxed for the year even though it will be occupied as of April
17 1. Ms. Noel said that the Fire Department will use the building for training. Mark Bender does not believe it will be
18 set on fire, but it will be used for training.
19

20 Selectman Putnam moved to waive the taxes for the building. Chairman Fougere seconded. All were in favor. Mo-
21 tion passed 5/0.
22

23 Ms. Noel presented three abatement applications that she recommends for approval. Selectman Daniels moved to
24 approve the three abatements recommended for approval. Vice Chairman Federico seconded. All were in favor.
25 Motion passed 5/0.
26

27 Ms. Noel indicated there was another abatement application at James Street that she is recommending for denial
28 because she feels the assessment is in line with the other units. Selectman Putnam moved to deny the abatement
29 application as recommended by the Assessor. Selectman Bauer seconded. All were in favor. Motion passed 5/0.
30

31 Ms. Noel indicated that she notified all of the property owners that the applications would be addressed at tonight's
32 meeting.
33

34 **6:00 p.m. – Citizen Concern and Alternative Suggestions to BROX Firearms Restrictions.** Mr. Skinner, resi-
35 dent, submitted bullet points for the Board to consider regarding Brox firearms restrictions. His primary concern is
36 safety. His first concern is where people will go if they cannot shoot at Brox. He has visited the area where some
37 people go to shoot. If Brox gets closed for shooting, people will go somewhere else. Officers used to qualify
38 (shooting) out there. Local gun groups in NH have a waiting list that is out six months to three years. The pit ap-
39 pears to be the safest placed to shoot here in Milford. Mr. Skinner said if we could set times and also write an ordi-
40 nance that would be a fair compromise. If the conditions are good, before he goes to shoot, he calls MACC Base to
41 let them know he will be shooting. There should be a check in when someone is going out there to shoot and then
42 have a safety course if they go out there to shoot. Trash is always left out there but glass is a concern. There is a
43 shooting community that has expressed interest in cleaning it up and there are people that want to keep the pit open
44 and help. Chairman Fougere said this is something we have been talking about, we have had some issues out there,
45 but most issues are from people outside of Milford. We were thinking about an ordinance but Town counsel thought
46 another approach would be better. The problem with continuing to allow it is how to monitor it. How does it get
47 cleaned up and there are a lot of other issues, and then there is the safety aspect. Mr. Skinner said as far as the lead
48 from the bullets, a bag of lime will help with that.

49 Selectman Bauer asked if there are alternate places where people can shoot? Chairman Fougere said there was
50 a gun club in the area but that has been closed. Selectman Daniels indicated if the area is designated for shooting,
51 how can it be open to use, but not promoted? A lot of people from outside of town come here to shoot. Mr. Skinner
52 asked if Milford has thought about opening its own gun club? Selectman Daniels said that should be private not
53 public. Vice Chairman Federico is against that activity because of safety for the number of people using the proper-
54 ty. No matter how safe you make it, nothing is 100%. Is it really the business of a municipality to get into running a
55 target range? If all the users were like Mr. Skinner, we would not have the problems we have. Chairman Fougere
56 said this will be on the agenda again. Mark Bender indicated a draft rule will be available by the next meeting. Po-
57 lice Chief Viola understands Mr. Skinner's point of view; he is passionate about this but we have to look at the safe-
58 ty aspect. He is doing everything the right way, but not everyone is. Mr. Skinner said if an ordinance were to be

1 done, it should follow the Londonderry one that allows target shooting on a piece of town land. The restrictions are
2 based on that area having no berm, it just has trees. The Londonderry restrictions are based around deer and turkey
3 hunting season.

4 Chief Viola indicated that the town of Weare had a shooting range near the transfer station and they required a
5 waiver of liability and training. Mark Bender noted that range had a pistol and rifle restriction and only a certain
6 caliber was allowed. Tina Vallier supports shooting at the Brox pit, she understands the safety concerns, but sup-
7 ports having a shooting area in Milford. Bob Wisniewski, resident, said if you belong to a shooting group they have
8 an extensive amount of liability insurance. If the town allows shooting, does the town assume the liability with that
9 usage? Chairman Fougere said the Board has not looked into that, because the Board was looking to not allowing it.
10 Mark Bender said we would have to check on that. Bob Willette suggested we should know that answer as a town.

11
12 **6:15 p.m. –Fieldstone Review of Sand and Gravel on Town Community Lands.** Chad Brannon, Fieldstone,
13 reviewed the information regarding the gravel project on the Brox property. Chairman Fougere indicated in 2016
14 the voters approved the sale of gravel from the Brox property. Since last year, a scope of services was prepared and
15 sent out to bid. A company that was willing to participate was found, and a plan was drafted by Fieldstone. The pit
16 was grandfathered as a gravel pit, permits were required and we will go back to the Planning Board and Conserva-
17 tion Commission in April for an update. Mr. Brannon reviewed the status from the planning and permitting stand-
18 point for the project. In December 2014 Fieldstone was before this Board with preliminary plans; the Master Plan
19 for the property had potential plans for buildings and fields and a future cemetery. In order to detail the Master Plan,
20 Fieldstone performed forty test pits on the property. Those test pits allowed Fieldstone to know what type of mate-
21 rials there were and the seasonal water table which helped evaluate the materials there. There is silt and fine sand on
22 the property and there are pits south of Heron Pond with a good gravel depth; 180,000 yards of gravel can be exca-
23 vated. We were able to identify that there are marketable materials. The plan creates balance and provides a sub-
24 stantial amount of conservation land and allows for extraction of materials for future uses on the property. The re-
25 grading of the gravel pit allows two gravel resource areas. Area one and area two were identified; area two will also
26 be used for future town use. Fieldstone believes the project creates good balance. A wetlands inventory has been
27 updated, permits have been applied for and we are awaiting approval and working closely with NH Fish and Game
28 and the DES. The future plans were also shared with them including the expansion of excavation. Comments were
29 received from Fish & Game for us to be aware of endangered species. A wildlife biologist has been contacted and
30 recommendations have been received. Plans also provide additional buffering and mitigation that were proposed by
31 wildlife biologists. A concession was made to not go after the 180,000 cubic yards of materials due to its location.
32 We will not dig as deep in some areas.

33 NE Sand and Gravel has contracted with the town to remove materials from Area 1. The total material to
34 be removed is 685,000 cubic yards over 24 acres. 648,000 cubic yards will be marketable. Area 2 is for town use, it
35 will not be part of this operation. The work will be done north to south. This design prevents any erosion from the
36 property. Transport of materials from the site will be by trailers which transport 20-60 cubic yards per load, exiting
37 through the access road to Perry Road. Hours of operation are 6 am to 7 pm. The 6-7 a.m. will be used for truck
38 load only. The excavation from this pit originally began in the 1950's.

39 The plan proposes the conservation of 75 acres of land. Education stations will be available for the public.
40 Five turtle mitigation areas will be provided. Annual inspections of the operation will be performed and mitigation
41 of turtle habitat will continue. The total disturbed area is 37 acres. Mr. Brannon asked for questions.

42 Selectman Daniels asked that the school be identified on the map. Vice Chairman Federico asked where
43 the excavation is on the proposal. Mr. Brannon pointed it out and explained where things are in reference to the
44 school. Selectman Daniels asked if any materials from Osgood Pond will be brought to Brox. Chairman Fougere
45 indicated the state concern with that is spreading the invasive species purple loosestrife more than it already has, it
46 was sent to UNH for analysis (by Fred Elkind). Vice Chairman Federico stated the property is approximately 270
47 acres and the town is looking at disturbing only 37 acres. Mr. Brannon also added that there is commercial land and
48 industrial land in that total and only 37 acres will be impacted. Vice Chairman Federico said that 18 acres are al-
49 ready overworked. Mr. Brannon agreed, stating 18 acres have already been disturbed and now this is another 37
50 acres. Vice Chairman Federico asked if the wildlife biologist is written in any of the plans. Mr. Brannon said that is
51 written in the plan already; we have received comments about reinforcing the mitigation.

52 Chairman Fougere said tonight we should talk about the tree cutting and what to do with the timber funds.
53 It is still winter but the snow will soon melt. We might want to do cutting now on the east side of the property while
54 it is dormant. Cutting now might be less of an issue with the wildlife moving around. Mark Bender said two bids
55 have been received, one from Alex Jordan who would like to walk the property to define boundaries. A second bid
56 came in from Chappell and they felt the pine and hardwood might bring in up to \$20,000.

57 Adam Goess moved here from Long Island in March 2016 and indicated it is so quiet in Milford he and his
58 wife need noise machines at night to sleep. The dredging and the truck dumping and an active gravel pit will pro-

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1 vide lots of noise and he asked if there could be a 100 foot buffer to the residential properties. He also asked for the
2 property to be staked. Vice Chairman Federico asked if bounds were set? Mr. Brannon said that has not been done
3 yet, but some of the bounds have been located. Chairman Fougere said the bounds should be found on the property
4 to make sure cuts are done on the right land. Adam also asked about the 6-7 a.m. loading time, asking if those hours
5 could be thought thru. His primary concerns are noise, odor and visual impact to his quality of life. Mr. Brannon
6 believes when the plan goes to the Planning Board and Conservation Commission, those items will be reviewed,
7 plus there will be a dust control plan. The State RSA 155(e) has regulations including buffers for noise and dust
8 control.

9 Suzanne Fournier, Brox Environmental Citizens Group, is in opposition to the timbering, in this forest there
10 is rare Appalachian Oak and she was advised to leave the trees. There are different kinds of vegetation and only
11 10% of NH has that type of forest which has not been inventoried, the species have not been studied at Brox. The
12 vernal pools have to be studied. Meridian did a vernal pool study, but the quality of the pools have not been studied.
13 Ms. Fournier said it needs to be studied. The town should do the property studies. Postpone this one year. Altera-
14 tion of terrain is in the permit, let them review this. Do not be hasty. The wetland permit application is needed for
15 this project. Mr. Brannon said this project does not require a wetland permit application. Ms. Fournier stated there
16 are some pools on this site, but nobody wants to recognize them. There were wetlands flagged in 2013 as wetlands.
17 They do not change in one drought year. Ms. Fournier said Eben Lewis of the wetlands program said the town is
18 trying to use an exception or are saying it is a drainage ditch. These large vernal pools have species in them. Mr.
19 Brannon said they did a vernal pool study on the project, and we stand by the mapping of the site, the areas are with-
20 in the active pit, there are drainage statutes and DES has not identified that a wetlands permit is required. The certi-
21 fied wildlife biologist will be a consultant and Fred Elkind agrees they are storm water components. We do not
22 write the statutes but we do abide by them. Ms. Fournier is telling the Board of Selectmen that they told her they
23 will require the wetland permit. She state the Wetland Bureau needs to be consulted. This week she was told it is
24 required. Ms. Fournier added in 2013, Fieldstone did a delineation of the peninsula and the Board will hear about
25 this in the weeks ahead.

26 Tom Gardener asked who is liable in the event of an accident? Chairman Fougere said the contractor is
27 required to follow all of the requirements set by OSHA including air quality and they will need to comply. They are
28 the operator.

29 John Noble asked about the alteration of terrain permit, asking if there will be an opportunity for public
30 comment? Mr. Brannon responded that there is no public hearing component, they seek the input of Fish and Game.
31 Mr. Noble stated he cannot comment on that process? Chairman Fougere suggested he can write a letter or call the
32 individual at the State, the proposal has to do with drainage and where the water goes. Ms. Fournier said Gloria
33 Andrews is the person in charge of this project and she does welcome all input. She is in on it, and is open to public
34 comments, there is no hearing but you can give input.

35 Last week it was questioned by some people about this site being grandfathered for the operation, Chair-
36 man Fougere stated this was fully vetted 3-4 years ago, it went through in 2012 and DES was informed in 2013.
37 The full history of the property was researched by Bill Parker and determined that the property was a grandfathered
38 gravel pit and is well documented. Ms. Fournier asked if the new area is grandfathered? Chairman Fougere said
39 yes, the entire 270 acres is a grandfathered gravel pit. Ms. Fournier questioned if they were separate parcels at one
40 time and asked if that matters? Mr. Brannon responded that it does not matter per statute 155(e), the only time it
41 could not continue to be grandfathered is if it were to cross a municipal boundary. Chairman Fougere stated that in
42 last week's Cabinet there was a letter to the editor from Mr. Gardener which stated the Brox excavation is a scam, to
43 which Chairman Fougere takes offense. The plan of action is fully what has been talked about for the last three
44 years, it is based on market conditions. If the operator finds no one is buying gravel, the price per yard will still
45 provide revenue to the town. Based on conditions, the operator might sell materials quicker. What is being present-
46 ed today is the same as what was presented years ago. The tree cutting requires more information. A 100' buffer
47 should be considered for abutters. The Board can look at staking the property, once the snow melts, we can look at
48 that.

49 Ms. Fournier asked if any changes were made to the plan since last week's meeting? The 100' buffer
50 around Heron Pond specifically. Mr. Brannon indicated that no changes were made to the plan. The work being
51 done around Heron Pond currently is mitigation work. Ms. Fournier said the buffer that was put there was because
52 of excavation and DES required the town to do that. Chairman Fougere indicated the town was not in violation of
53 anything, and it was not required, it was recommended. They asked, they did not require. This plan will be re-
54 viewed by the State offices. If the state does not want us to mitigate it, we won't. Mr. Brannon said 3 members of
55 Fish & Game and a wildlife biologist were there, walking around and talking about creating a natural berm to pre-
56 vent a migration of species. All we are designating on the plan is what was discussed in that area. The plan will be
57 submitted to the state who recommended it. Ms. Fournier said there is a town ordinance that a 100' buffer go all
58 around the wetland; she asked that everyone take a look at the town ordinance. Chairman Fougere said it is a miti-

1 gation provision and is being reviewed by the state and we will see what they say. This is a sensitive site, there was
2 a Master Plan made specifically for this site, and we are proposing not to disturb a significant area; we cannot save
3 everything, but it is a good balance. If we put a school in on this land, the property will be disturbed.
4

5 **3. PUBLIC COMMENTS. (items not on the agenda).** There were no public comments.
6

7 **4. DECISIONS.**
8

9 a) **CONSENT CALENDAR.** Chairman Fougere asked if there were any items to be removed from the
10 Consent Calendar for discussion. There were no items removed from the Consent Calendar for discussion. Select-
11 man Putnam moved to approve. Selectman Daniels seconded. All were in favor. Motion passed 5/0.
12

- 13 1) **Approval of Certificate of Action Appointment Mark Bender as Agent of the Board of Select-**
14 **men for the Fernwood Drive Acquisition, Map 48, Lot 55-1.** The Board approved the certificate of
15 action appointing Mark Bender as Agent for the Board of Selectmen for the Fernwood Drive Acquisi-
16 tion, Map 48, Lot 55-1 as follows:
17

18 **CERTIFICATE OF ACTION TAKEN BY THE BOARD OF SELECTMEN**
19 **OF THE TOWN OF MILFORD**
20

21 Pursuant to New Hampshire law, I, Tina Philbrick, Executive Assistant of the Board of Selectmen, do
22 hereby certify that at a meeting of the Board of Selectmen held on March 13, 2017, the following moti-
23 on was made, seconded and adopted:
24

25 RESOLVED: That Mark Bender, as the Town Administrator, is hereby appointed as agent of the
26 Board of Selectmen for the purpose of taking all actions appropriate, convenient or necessary for the
27 acquisition and acceptance of title to real estate located on the east side of Fernwood Drive, and
28 known as Tax Map 48, Lot 55-1, in the Town of Milford, Hillsborough County, New Hampshire, in-
29 cluding but not limited to, the power to accept the deed of conveyance on behalf of the Board and the
30 Town of Milford, and to execute, deliver, and accept, agreements, certifications, affidavits, or such
31 other forms, disclosures, or documents, including the Settlement Statement, he deems appropriate,
32 convenient or necessary to accomplish and of the foregoing, and to accept funds or proceeds, or other
33 credits in furtherance of the foregoing.
34

- 35 2) **Request for Approval to re-appoint Tina Philbrick as a full member to the Traffic Safety**
36 **Committee.** The Board approved this re-appointment.
37 3) **Request for Approval to re-appoint Janet Langdell and Paul Amato full members to the Plan-**
38 **ning Board.** The Board approved the re-appointments.
39 4) **Request for Approval to re-appoint David Bowen as a full member to the Recycling and Solid**
40 **Waste Committee.** The Board approved the re-appointment.
41 5) **Request for Approval to re-appoint Herbert Adams as a full member to the Heritage Commis-**
42 **sion.** The Board approved the re-appointment.
43 6) **Request for Approval of Building Permit Refund-SunRun Installations Services.** The Board ap-
44 proved the solar building permit refund in the amount of \$88 for Sunrun Installation Services.
45 7) **Request for Approval of Building Permit Refund – Solar City.** The Board approved the solar
46 building permit refund in the amount of \$204 for Solar City.
47

48 b) **OTHER DECISIONS.**
49

50 **5. TOWN STATUS REPORT.**

51 Town Administrator Mark Bender thanked Kathy Bauer for her years of service to the Town and noted she will
52 be missed. She was presented with flowers from the staff. Selectman Bauer thanked him and said she has
53 learned a lot and will miss everyone.

54 a) **Pothole Update.** Mark Bender indicated that DPW has been very busy patching potholes and has put
55 down 35 tons of paving materials so far this year. To the public he indicated people can call DPW at 249-0685
56 to report any holes that need to be fixed. Work will be ongoing.

57 b) **Website Update.** Many staff members have started work on the website, the Board of Selectmen will also
58 participate in the update.

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6. DISCUSSIONS

7. SELECTMEN’S REPORTS/DISCUSSIONS.

- a) **FROM PROJECTS, SPECIAL BOARDS, COMMISSIONS & COMMITTEES.**
- b) **OTHER ITEMS (that are not on the agenda).**

8. APPROVAL OF FINAL MINUTES. Selectman Bauer moved to approve the minutes of February 13, 2017 and February 27, 2017 as presented. Selectman Daniels seconded. All were in favor. Motion passed 5/0.

9. INFORMATION ITEMS REQUIRING NO DECISIONS.

10. NOTICES. Notices were read by Chairman Fougere. **Special note: Town Elections will be held at Milford Middle School Saturday, March 18 6 a.m. to 8 p.m. They will not be held Tuesday March 14 due to inclement weather.**

11. NON-PUBLIC SESSION. Selectman Daniels moved to enter into non-public session at 7:40 p.m. in accordance with RSA 91-A3, II(a) - Personnel. Selectman Bauer seconded. All were in favor. Motion passed 5/0. Selectman Bauer moved to unseal the non-public minutes of February 13 and February 27, 2017. Selectman Putnam seconded. All were in favor. Motion passed 5/0. Selectman Bauer moved to approve the non-public minutes of February 13 and 27, 2017. Selectman Putnam seconded. All were in favor. Motion passed 5/0. After discussion Selectman Putnam moved to come out of non-public session at 8:14 p.m. Selectman Bauer seconded. All were in favor. Motion passed 5/0. Chairman Fougere announced that while in non-public session, two decisions were made. Selectman Putnam moved to seal the minutes of this non-public session and re-seal the non-public minutes of February 13 and 27, 2017. Vice Chairman Federico seconded. All were in favor. Motion passed 5/0.

12. ADJOURNMENT: Selectman Daniels moved to adjourn at 8:15 p.m. Selectman Bauer seconded. All were in favor. Motion passed 5/0.

Mark Fougere, Chairman

Kevin Federico, Vice Chairman

Gary Daniels, Member

Katherine Bauer, Member

Mike Putnam, Member