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TOWN CLERK'S OFFICE

MINUTES

Board of Selectmen

Tuesday, April 18, 2017 – 7:00 PM

Norma Drummer Room – Town Hall

Members Present: W. Kurt Miller, Stephan Behuniak, Karen Stanek, Len Greene Jr., Al Bruno, Annmarie Drugonis & Nicole Klarides-Ditria (7:07 PM)

Members Absent: None

Others Present: Town Counsel Rich Buturla, recording secretary Rory Burke, Building Official Jim Baldwin, Manager of Operations & Grants Deirdre CarusoSaundra Gesek, John Maiorino, Ronald Kane, Katherine Garlin-Kane, Kevin Flaherty, George Noe, Janice Han, John Maiorino & Michael Flynn

Item#1: Call meeting to order

The meeting was called to order at 7:04 PM.

Item #2: Pledge of Allegiance

All present stood and recited the Pledge of Allegiance.

Item #3: Public comment

Kevin Flaherty – 29 Emma Street – Mr. Flaherty handed out documents from HUD. Item #7 says the Small Cities Housing Rehab Specialist didn't pull out the permit. He came to the house and resolved several of the issues that were outstanding in February. He took the permit with him and then returned it in the mail afterwards. I have an email to corroborate this.

Item #4: Approve minutes from April 4, 2017 regular meeting

A motion was made to approve the minutes from the April 4, 2017 regular meeting.

Motion: Annmarie Drugonis

Second: Len Greene Jr.

Vote: 6-0-1 (Kurt Miller abstains)

Item #5: First Selectman's Report

1. As a reminder, the Earth Day Clean up at Sochrin's Pond is schedule for this upcoming Saturday, April 22 from 9-12 noon. Pizza will be provided for all the workers when we are done. I hope to see everything there.

2. Threw out the first pitch for 68th Annual opening day of the George J Hummel Little League on Saturday. It was great to see the kids and is always a fun event. Unfortunately, my arm isn't what it once was and my first pitch left something to be desired. Thankfully, no one was injured.....

3. Public Hearing on the Budget was held on Monday, April 10th. Attendance was very low. As a reminder, the Annual Town Meeting will be held on Thursday, April 27 at 7pm at the Seymour Middle School. In case there is a lack of quorum, the Board of Selectmen will hold a special meeting to move the budget forward to referendum vote should it be necessary. I ask that you all make plans to attend the meeting which should be very quick.

4. The Taco Eating Contest will be held again this year to benefit Team's Meals on Wheels. The event is scheduled for Friday, May 5th at 5:05 pm at Hot Tamale. Information will be sent out tomorrow. I hope you can attend.

Item #6: Discussion and take possible action regarding potential reimbursement for 53 Mountain Road tree claim

Kurt: In the packets, there are: a letter from Ronald & Katherine Kane of 53 Mountain Road, a letter from the insurance company and an invoice from the siding company, Andy's Siding LLC.

To whom it may concern,

On Friday October 28, 2016 a large tree fell from city property onto our front yard at 53 Mountain Road, during a mild wind storm. My family and I were quite shaken up as this was a rather large tree that managed to hit the house on its way down and land in the general area our dog goes out to use the bathroom. Thankful that no one was outside or hurt in the process, we went out to check the damages and saw that there were several marks in the house: on the front and side paneling leaving the siding cracked in multiple areas (see previously submitted photos). Though the city responded quickly with cleanup, we have yet to hear back about the damage to our home.

Thank you in advance, we look forward to hearing from you.

Best,

Ronald + Katherine Kane

Kurt: Trident, the Town's insurance company, denied the claim because the Town had no prior notice as to the state of the tree. The Kanes solicited a quote from Andy's Siding LLC. Now that the claim has been denied it is up to the Board to determine if we will reimburse the resident.

Len: This was in the right of way?

Kurt: It was definitely a Town tree.

Annamarie: It was a bad wind storm, right?

Kurt: It was windy that night, I don't remember the severity that night.

Karen: Several years ago a tree fell onto Route 67 and hit a car. I recall that there was some compensation. The woman passed away.

Stephan: I think that it's the Town's tree, it's the Town's responsibility.

Rich: The insurance company is relying on the law of negligence. Because there was no notice such that the Town knew or reasonably should have known, they are saying the Town has no liability. It's the same argument they make for potholes, which the Town usually reimburses. Sometimes diseased trees appear healthy.

Len: Would this set a precedent in which we'd be liable for a massive storm?

Rich: No, acts of god are usually excepted from insurance policies.

Stephan: Any future cases like this would come before us, right?

Rich: I think it would be judged on a case-by-case basis. I've seen it in other towns where a homeowner calls Public Works and says a town tree is diseased and it's added to a list. The tree falls and causes damage so the Town knew and the insurance company would be liable.

Karen: If I was the homeowner and had a diseased tree on my property and I call Public Works, how long do they have to take care of it?

Rich: If you've reported it we're liable.

Kurt: Sometimes we can't take care of it internally, based on the size of the tree.

Karen: I've seen Mr. Belletti's truck at Public Works and I know he cuts down trees.

Kurt: Yes, he keeps a truck there so that he can respond quickly.

Nicole: Should they get another quote?

Katherine Garlin: That night there was hardly any wind. The tree was quite large and left a huge divot in the lawn. We discussed it repeatedly with Trident but they repeated the argument in the letter. We got other quotes and this was the least expensive. We're not trying to take advantage of the situation, we just want our home repaired. We've been given the run-around since October and we hope that you can help us.

Anmarie Drugonis: Have you called Public Works to discuss the trees?

Ronald Kane: Yes, they came out for the first one but not the second. We called them right away and cleaned it up ourselves because they didn't come out.

A motion was made to reimburse the Kanes the full \$1,200 to repair their siding.

Motion: Stephan Behuniak

Second: Len Greene Jr.

Vote: 7-0

Nicole: We should get Public Works out there to look at the other tree.

Anmarie: I'm letting the Director know now.

Item #7: Discussion and take possible action regarding National Day of Prayer

Dear Mr. Miller,

The National Day of Prayer will be held this year on Thursday, May 4th, 2017. This is a National holiday which will be observed across our nation. We would like to observe this day at 12 noon at Seymour Town Hall. I will be inviting churches and pastors in our town to participate. Would it be possible to have this service at the Town Hall as we have had in the past? If so, I would call on you for a brief talk and would you read a proclamation from the Town of Seymour? Pastors will participate in prayers and a message will be given appropriate for the occasion. Thank you for all the help you have given us in the past years. And we have used the Norma Drummer room. Thank you for your cooperation in the past years.

Sincerely

A motion was made to celebrate National Day of Prayer at Seymour Town Hall at 12 PM on Thursday, May 4, 2017.

Motion: Anmarie Drugonis

Second: Karen Stanek

Vote: 7-0

Item #8: Discussion and take possible action regarding Founder's Day Request

Dear Mr. Miller,

Seymour will be experiencing its Eighth Annual Founders' Day on June 4, 2017 (rain day June 11th, 2017) in celebration of its history and heritage. The event will be held from 10:00 a.m. To 4:00 p.m. and will encompass the entire downtown area, Main Street from Trestle Tavern to the Strand Theater parking lot, including Bank, First, Columbus and part of Deforest Streets, they will be closed to vehicles and open to only pedestrian traffic. The street will be filled with vendors, amusements, and other forms of entertainment.

We are anticipating the festival will attract not only local residents but many visitors from other areas. Therefore: it is our hope that you will provide us with the use of these parking lots on the above dates. , Seymour Community Parking lot, The Strand Theater lot for handicap parking, the parking area at Main Street known as the Metro North Lot, but owned by the town, the Wakeley Street lot across from the Citizens Engine Company, and the Town Hall Lot for our beer garden and food court, if you have any questions or concerns please do not hesitate to contact me.

The Seymour Founders' Day Association wishes to thank you in advance for the help and support. Please check one the following boxes, sign and return to:

Judith Simpson

A motion was made to approve the use of municipal parking lots and for use of the Community Center bus in accordance with the request of the Founder's Day Committee

Motion: Nicole Klarides-Ditria **Second:** Annmarie Drugonis

Vote: 7-0

Item #9: Update regarding Small Cities program

Kurt: As we know, several residents have been telling us about issues with the Small Cities program over the past several meetings. I asked Building Inspector Jim Baldwin and Manager of Operations and Grants Deirdre Caruso to do an evaluation. I also asked Town Counsel to give us a legal opinion.

Jim Baldwin: I did a review of the work in the cases for which the Town received complaints. As you know, I administer the State building code and ensure compliance. I found two of the three cases audited in compliance; the third had one deficiency, which has not yet been remedied. The onus is on the contractor to take out the permits. Permits were taken out, in one case not immediately. Some of the work is outside the scope of the Building Department because it's not in the code, such as driveways and site work. The work done meets the standards and that is my charge. I read the contracts and reviewed the change orders for the work and they seem to line up although I'm not an attorney. There are dispute of the quality of the work but the code does not speak to that. Other residents in the program, and I do not know what all the criteria are or whether a project is a part of the program, and some of the residents have been very happy. My role is strictly limited to compliance with the State building code.

Len: The code is not designed to address quality, more safety issues?

Jim: Yes, it's been a lot of electrical work. There's not an aspect of component quality.

Stephan: Was there anything about the properties that you remember being worse than typical?

Jim: I can't speak to that.

Al: The one issue that's still has to be remedied; can you say what it is?

Jim: There was a replacement of an oil tank. He had several items done. The tank was located in what I would consider a garage because there was an overhead door even though there was no car there.

Because it was in a garage, it has to be protected from physical damage. I cited it as an issue with the code. I believe the contractor has been made aware by both me and the owner several months ago. It's not the responsibility of the Town to follow up.

Len: Is that a normal turnaround time?

Jim: We like to see violations corrected as soon as possible. If there's a dispute with the contractor, that's outside our scope.

Kurt: Deirdre, can you speak to the bid process?

Deirdre Caruso: The homeowner puts in a request for what they want done and then the administrator works with them to see if there is other work that needs to be done. Then it is put out to bid, sometimes several jobs in a single bid. Contractors submit a sealed bid by a certain date and time and it is open publicly here in Town Hall in front of the contractors. The contractors are required to be prequalified by HUD, who reviews their licensure.

Len: How limiting are HUD's qualifications in terms of the number of vendors?

Deirdre: We received \$400,000 twice, 2014 and 2016. We're on our 32nd project and I've seen a lot of bidders. Some have multiple respondents and some have only one. Once they're opened, the consultant reviews them to ensure compliance.

Len: Are there a lot of vendors who seek these qualifications?

Deirdre: I'm not sure. They have to use the lowest bidder per the Department of Housing. We manage the finances and the administrator executes the grant.

Jim: This grant is being done in other municipalities in the area. The contractors who respond to the bids seem to specialize in this work.

Stephan: So the Town has very little oversight other than distributing the money?

Deirdre: That's correct. The grants are revolving so once the money is repaid it will go back out to be reused when the deed is transferred.

Kurt: I also asked Rich to review the contracts to see what can be done.

Rich: I'll follow up with Stephan's question regarding the Town's role. First, we have a role with regards to code enforcement, that is to say it is like every other building permit. That has been done according to the book. I've heard comments about the homeowners not knowing what work was done. I pulled the contracts and I recognize that everyone is a layperson. Each contract is based on a HUD template and ranges between 30-35 pages. In the law, when a person signs a contract, they're presumed to have read it. I don't know whether that's the case here. I found some of this a little surprising in terms of the language used. The standard is "please note that this housing rehabilitation program is pragmatic. Product and workmanship expectations are median rather than ideal." They're letting you know right off the bat. I've never seen language like that in 30 years. This is a contract and the Town has very little role. It is signed by the contractor and homeowner. Part 3 of each contract contains relatively detailed scopes of work. Price information is also listed and change orders, where they occurred, are included. The Town is not a party to the contract. You cannot interfere in it. What can the residents do? On page 6, and the pagination varies, paragraph 30 is relatively standard in the construction industry. "All claims or disputes between the Owner and Contractor arising out of or related to the work shall be resolved in accordance with Construction industry arbitration rules of the American Arbitration Association (AAA), unless parties mutually agree otherwise." They don't go to court to resolve disputes, they go to

arbitration. That doesn't leave a remedy for the Town to interject. The only real role for the Town in the contract is code enforcement.

Kurt: What level of responsibility does the administrator have?

Rich: She's not a party to the contract either. The consultant probably prepared the contracts based on a HUD template and oversaw the bidding and qualification of bidders as well as working on the payment administration. Again, she's in the same position as the Town regarding a dispute between the homeowners and contractor. The arbitrator may not even be an attorney.

Len: To be clear, we can't legally do anything about what's been done?

Rich: We're not a party.

Len: Moving forward, the Town's role is enforcing the code and it seems like that was done. Regarding the grant itself, the consultant doesn't have any legal responsibilities either?

Rich: No, but going forward the Town may want to be a party to reviewing the bids and the bidders qualifications. You can also pursue revoking their qualification.

Len: Was the unique language part of the HUD template?

Rich: I don't know.

Len: If we find that the bidders weren't as forthcoming as we'd like or were uncooperative, what can we do to make sure this doesn't happen again? Can we file a complaint with HUD or does that have to be done through the consultant?

Rich: The Town should confer with the consultant. Remember, the Town's role is code enforcement.

Stephan: Going forward, the Town needs to seriously look at what we can do to prevent this. I think part of that is having someone sit down with the people taking advantage of the grant to review it with those who are taking advantage of the opportunity to make sure they understand what's involved. I think the consultant dropped the ball.

Al: I'd be cautious having a Town employee give legal guidance to a party to which the Town is not party.

Rich: We cannot give legal advice.

Stephan: Since we are providing the money, the residents will turn to us first.

Al: We're a conduit for the money from the State. To your point though, it's clear the consultant is not doing a good job explaining it to the residents. It never ends well if we inject the Town into something like this.

Kurt: How could we exclude a bidder if the work complies with the code?

Rich: I would recommend we speak to the consultant to see what the process is for barring a contractor because there's probably a formal process. I wouldn't recommend right now that we pursue that right now because we don't know the facts but we can look into it.

Nicole: Regarding the consultant, have you discussed this with her?

Kurt: I was waiting for this conversation to take place.

Nicole: I think we need to pursue it. I know my aide had a conversation with her about the introduction process to make sure the residents understand what's stated in the contract.

Kurt: She has tried to see me but I was waiting until this conversation occurred and I got some direction from the Board.

Stephan: We need to be on the same page as the consultant. Regardless of whether we have any liability, we are subjecting our residents to hardship.

Kurt: How many projects have been done?

Deirdre: 28 have been completed and these three are the first with issues. The contractor has participated before.

Len: If we find that one contractor is doing things that are permitted but unethical I think we should pursue debarment to protect our residents.

Annmarie: Was the same contractor used in these three projects?

Deirdre: Yes.

Kurt: Can we find out if they've been involved in others?

Deirdre: I can check.

Jim: My role as a building official wouldn't be to research a particular contractor unless they had code violations. I would defer to Town Counsel on that. If it's brought to my attention, we can consult our files, which are all public information.

Rich: From my perspective, we should have Dee identify other projects done by this contractor and have the administrative staff perform the research.

Kurt: I want to see if this is an isolated incident.

Rich: Remember, though, that the Building Official has found that the work is up to code and the language in the contract is very specific so I think we need to tread carefully.

Len: Some of the work is outside the scope of the code. Regardless though, I think this is a shot across the bow for these contractors.

Kurt: Can we even follow up with the contractors?

Rich: Let's start with the consultant.

Kurt: Is the Board comfortable with Rich and I meeting with the consultant and reporting back to the Board?

Item #10: Executive Session (Legal– Rybczyk claim)

A motion was made to go into executive session at 8:10 PM inviting Town Counsel to remain.

Motion: Len Greene Jr.

Second: Al Bruno

Vote: 7-0

A motion was made to exit executive session at 8:24 PM noting that no action was taken.

Motion: Annmarie Drugonis

Second: Nicole Klarides-Ditria

Vote: 7-0

Item #11: Discussion and take possible action regarding Rybczyk claim

No action was taken.

Item #12: Discussion and take possible action regarding municipal organizational chart

Kurt: As you know, we have been working with the Board of Education to merge operations with regard to facility management and grounds keeping. We did it with technology and it has been very successful. At their meeting on April 3rd, the Board of Education agreed on the creation of a joint facilities manager position. They had stipulations including approval of the Board of Selectmen, they want the position to be posted, they want it to start on or after July 1, 2017, they want a joint review in May 2018 and

reserve the right to terminate it before June 2018. In that last case, the position would remain with the Board of Education, which was what we did with technology. The Town will be providing the services of Public Works in lieu of additional funding because the position is already above market rate. The Town's Director of Operations and Assistant Superintendent will oversee the Facilities Manager position. I'd also like to bring all purchasing under the Manager of Operations and Grants. I would like to move the Public Works Assistant to become the Assistant for the Director of Operations. That position would retain its current responsibilities and add more. There will be no additional costs related to this restructuring. I think it will improve efficiency and it will benefit the Board of Education more since Public Works will take over the maintenance of school grounds from the custodians. It would potentially allow us to utilize some of the School System's part-time custodians. It will be a test for the first year but I expect it to be positive in the long term.

Annmarie: Is there an issue with union contracts?

Kurt: Public Works will continue to maintain Town property, which is already in their contract. They already do work at schools. The Board of Education may see a need down the road to not replace custodians as they retire and it may require hiring an additional laborer or two for Public Works. We'll see how it plays out.

Len: I think it makes sense.

A motion was made to approve the municipal organizational chart in concept.

Motion: Len Greene Jr.

Second: Nicole Klarides-Ditria

Vote: 7-0

Item #13: Appointments

A motion was made to appoint Stephan Behuniak to the Strategic Planning Committee for a 2-year appointment expiring April 18, 2019.

Motion: Nicole Klarides-Ditria

Second: Karen Stanek

Vote: 6-0-1 (Stephan Behuniak abstains)

A motion was made to appoint Corey Marchetti to the Strategic Planning Committee for a 2-year appointment expiring April 18, 2019.

Motion: Stephan Behuniak

Second: Len Green Jr.

Vote: 7-0

A motion was made to reappoint Jamie Yakusewich to the Recreation Commission for a 2-year appointment expiring April 18, 2019.

Motion: Nicole Klarides-Ditria

Second: Len Greene Jr.

Vote: 7-0

A motion was made to appoint Dustin Zrelak to the Sustainability Committee for a 2-year appointment expiring April 18, 2019.

Motion: Len Greene Jr.

Second: Stephan Behuniak

Discussion: Now the board is fully staffed. Rory will set up a meeting.

Vote: 7-0

A motion was made to reappoint Steve Kulas as the Motor Vehicle Hearing Officer for a 2-year appointment expiring May 2, 2019.

Motion: Stephan Behuniak

Second: Annmarie Drugonis

Vote: 7-0

Item #14: Tax Refunds/Abatements

A motion was made to approve the tax refunds/abatements as presented.

Motion: Nicole Klarides-Ditria

Second: Annmarie Drugonis

Vote: 7-0

Item #15: Transfers

There were no transfers before the Board.

Item #16: Correspondence

- Check register
- Letter to First Selectman from the Tax Collector regarding jeopardy tax collection
- A letter from Joseph Luciano regarding downtown curb cuts with bad landings and sidewalks with steep side slopes. He says new curb cuts are not ADA-compliant.

Item #17: Public Comment

John Stelma – 3 Oriole Lane - I want to thank everyone for their time and attention to the Small Cities issues. First, regarding the driveways, they were subcontracted. If we did our due diligence, it still wouldn't have made a difference because the contractor was different. We weren't given an opportunity to review the contracts ahead of time. My only issue left is some punch list items. Paperwork was my big issue. We want more information on the bidding process and the warranty. The total project time was listed as 60 days but my driveway started in September and was only finished last week.

George Noe – 10 Rocky Glen – Did Town Counsel read the contract before it was offered to the residents? If the Town is not involved, why do we owe the Town money? I never got copies of the bids. Why isn't the homeowner involved in the bid process? I was told if you don't like the lowest bidder you could pay the difference and take the next one up. Where were the inspections before the Town issued payments? There were supposed to be inspections at 50% project completion. I do not have warranties for any of the work done. I will not let the contractor on my property. I was not happy with the process at all.

Kevin Flaherty – 29 Emma Street – The mission statement says the projects are designed for the elderly, disabled and veterans. In spite of potential disabilities, these people are still able to sign for the contracts? He reviewed his correspondence with the Department of Housing. The warranty should have a start date and end date and mine is half over. The warranty began in October and was received

in March. I'll submit my conversation with HUD so you can review it. If the program is going to go forward, why wasn't there anyone else present for the contract signing?

Janice Han – 29 Emma Street – In the contract, it says that the consultant is supposed to check the project at 50% completion. That never occurred. It also says that before any money is given to the contractor, the consultant and the Building Official are supposed to review the house. The permits weren't pulled until January 23rd and he came out January 29th and supposedly the job was done October 21st. Again, we just received our warranties. If the Town is going to continue with the program, they need to have someone sit with the homeowners. Kevin was pressured into signing it in order to get it notarized. Shame on him for not taking the time but shame on the consultant for pressuring him.

Regarding the vinyl flooring, we're ready to get another contractor. There is a bubble in it and another contractor said if it was installed properly there shouldn't have been any tears by moving the refrigerator. I don't trust the contractor and I don't want him in my house. He has lied repeatedly.

John Maiorino – 38 Emma Street – When the contractor signs the contractor, who says he can't hire an unqualified subcontractor? Does HUD review subcontractors? I've done a lot of linoleum work and it's clear to me that the person who did the installation was not qualified. The quality of the work was terrible for the money they paid. Also I understand that they're doing work on Emma Street this year. I wish someone would talk to me about the problems there. It has to be ground down before it's done so I can explain the issue to them.

Michael Flynn – 85 Skokorat Street – In light of the tragedy on Rimmon Street, I think the Town has a right to protect and save lives. It's not for us to judge. I think we should install speed bumps on major arteries and we have an obligation to save lives.

Item #18: Selectmen's Public Comments

Karen: I agree with Mr. Flynn. It was a horrible accident but if a 16-year old wants to speed, they'll speed. None of the passengers were from Seymour. What were they doing in that neighborhood?

Kurt: Our Town Engineer is looking at speed barriers on roads in Town. I don't know if it will be feasible but we're looking into it. The problem with speed bumps is snow plowing.

Karen: I've noticed we have a lot of vacant business spaces and I'm wondering if there's some way we can get a report as to what businesses are being courted. I was told that we had Seymour Lumber torn down because we didn't like the family.

Kurt: The only two parcels that I could speak about with certainty are Housatonic Wire and Tri-Town Plaza. The realtor is not very forthcoming because they're trying to protect their clients. We've had contact on some of the larger parcels but I wouldn't know how accurate it would be. Again, these parcels are private property and we can't control what the owners want to do with it. I expect progress in the next 2-3 months on Tri-Town and Housatonic Wire. We can have the Economic Development Director come in if you'd like. I went to Hamden to tour a business incubator space with the vacant Seymour Trust building in mind.

Len: obviously we can't legally do anything about the existing contracts with Small Cities but I think we can improve the process and hold our consultant and the contractors accountable. I hope we take the action we can.

Al – I wanted to inquire about the curbing repair around town.

Kurt: Asphalt plants open about 2 weeks ago. I would expect it to begin in May.

Al: What's the process?

Kurt: The Public Works Department drives its plow routes and takes notes to plan repairs.

Al: I want to congratulate Middle School Assistant Principal Ernie DiStasi on the Rise Up event.

Annmarie: I want to echo that. It was my first year and I'm disappointed in this Board for not participating. I hope we can participate next year. I also want to welcome the Glass Source, a stained glass workshop to downtown. I also want to know about the quarterly reports, they seem to have stopped.

Kurt: They're still turned in. They're available on the website.

Annmarie: Didn't they come to report?

Kurt: I can't remember the last time that happened but we can request that they come. Let me know who you want to see.

Nicole: I'm sorry to the residents who have had issues with the Small Cities program. I hope Kurt's office reaches out to the consultant to see if there's anything that can be done. Regarding Mr. Luciano's comments and pictures, have we ever had them checked?

Kurt: Yes, the Town Engineer checked them.

Nicole: Rise Up was sold out again. Ernie DiStasi spearheaded this with Ed Strumello, a member of the Board of Education. He is a wonderful person and we're very fortunate to have him and I hope he stays for a long time. It's a great program and I encourage everyone if they're able to give one hour a week.

Item #19: Adjournment

A motion was made to adjourn the meeting.

Motion: Annmarie Drugonis

Second: Nicole Klarides-Ditria

Vote: 7-0

The meeting was adjourned at 9:13PM.

Submitted by,



Rory Burke
Recording Secretary

Reviewed by,



W. Kurt Miller
First Selectman