



## **Minutes of the Meeting of the Board of Selectmen**

Date: September 14, 2020  
Time: 6:00 p.m.  
Place: Audioconference Broadcasted Live from McCourt Social Hall  
Memorial Town Hall, Spencer, MA  
Present: Administrator Gregory, Chairman Hicks, Vice-Chair Woodbury and  
Clerk Howard  
Dialing in: Members Berthiaume and Pepe  
Fire Chief Parsons, Police Chief Darrin, and Moderator Shemeth

Chairman Hicks called the meeting to order at 6:05 p.m. and announced that the meeting is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, pursuant to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus. In order to mitigate the transmission of the COVID-19 Virus, we have suspended public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. We are currently meeting with a combination of members present and remote. For this meeting, Chairman Hicks, Vice-Chair Woodbury, and Clerk Howard are present and members Berthiaume and Pepe are remote, and as such, all votes will be taken by roll call in accordance with Regulation 940, CMR 29.10 of the Open Meeting Law.

### **Vote to approve the Meeting Minutes of August 17, 2020**

*A motion to approve the Meeting Minutes of August 17, 2020 (Woodbury/Howard) passed with a roll call vote: Berthiaume-yes, Pepe-yes Howard-yes, Woodbury-yes. Hicks-yes*

### **Vote to Release Previously Approved Executive Session Minutes of September 26, 2016; and April 9, 23, May 4, 18, 26, and June 1, 2020**

*A motion to release the Executive Session Meeting Minutes of September 26, 2016; and April 9, 23, May 4, 18, 26, and June 1, 2020 (Woodbury/Howard) passed with a roll call vote: Berthiaume-yes, Pepe-yes Howard-yes, Woodbury-yes. Hicks-yes*

### **Citizens Input**

Bob Cirba, Summit Street, expressed his concern over the increase in the Sugden Building apartment units from eight 1- bedroom to eight 2-bedroom units, thereby using more sewer than originally planned. The sewer system cannot take on more than what is currently approved. He also noted his concern over a perceived lack of oversight for signoffs and approvals for this project and solar facilities.

Moderator Bill Shemeth thanked Town Clerk Laura Torti for her service and new Interim Town Clerk Lisa Johnson for her current work. He also noted public safety concerns relative to a traditional Halloween and concern with the request of the Midstate Ultra Trail Run.

Kurt Nordquist, 8 Gale Drive, asked about the status of the CVS project. Mr. Gregory said the Zoning Board of Appeals will discuss during their October meetings.

### **Review and Act on Coronavirus / COVID-19 Response**

Health Agent Daoust reported that there are currently 83 confirmed Coronavirus cases with 3 active; the numbers are decreasing. She is awaiting guidance from the State on the protocol for Halloween and will inform the Board at that time.

Chief Parsons said the Fire Department continues to respond to possible Coronavirus cases. They are working closely with the Health Agent and the consultant for the Cares Act reimbursement. He is checking into electronic signboards. Mr. Woodbury asked if an electrostatic sprayer could be purchased for McCourt. Chief Parsons will place order.

Chief Darrin reported that Police Department Staff continue to remain healthy. He offered to provide a sprayer for cleaning to the Town Hall.

### **Old Business:**

#### **Discussion North Brookfield Road Solar Project & Possible Action**

Dr. Hicks noted that he has been advised by Town Counsel to speak carefully as there is a potential for litigation. There are a few items that need to be addressed with regard to the Special Permit and Mr. Gregory will follow up and report back at a future meeting.

#### **Discussion on Sugden Building Redevelopment & Possible Action**

Dr. Hicks pointed out that the project changed from sixteen 1- bedroom units to eight 2- bedroom units, plus eight 1-bedroom units. During this time the Town had a few different building inspectors. Sewer Commissioner Frank White noted his concerns with the sewer flow rate and said the project appears close to being completed. Building Inspector Duane Amos has a meeting scheduled with the Developer to discuss fire block protection between floors and has a few other issues that need to be resolved.

#### **Review & Act to Approve the Zoning Board Fee Schedule Amended to Include Comprehensive Permit Fees**

Mr. Gregory reported that Spencer does not currently have a fee structure in place for 40B Comprehensive Permits applications to the ZBA. Town Planner Paul Dell'Aquila compared fees of other communities and recommends implementing a \$1,000 base fee, a \$100 per unit fee, which will go into the general fund, plus an initial \$4,000 peer review fee to be replenished as needed and will be set up in a consulting fee account. The fees offset the projects costs borne by the Town.

Dr. Hicks said that although the proposed fees are fiscally sound, he is concerned it will be costly for developers. Mr. Pepe said he appreciates the research but is concerned with high

fees and wants to be business friendly. Ms. Berthiaume agrees that the fees are too high. Dr. Hicks suggested creating a subcommittee to study further and bring back to the Board at a later date. He acknowledged there is a cost to operate various departments and it is not fair for taxpayers to pay for businesses to come into Town.

Mr. Pepe suggested passing a base and per unit fee and hold off on the peer review fee. Mr. Dell'Aquila noted that Planning Board projects require a \$2,000 peer review in advance and requested the Board consider setting a fee of \$2,000 to be replenished, as necessary. Mr. Woodbury said he agrees the peer review fee is needed, however does not see a need for the other fees.

*A motion to adopt the amended Zoning Board Fee Schedule to include Comprehensive Permit Fees with a base fee of \$1,000; a per unit fee of \$100; and peer review fee of \$2,000 (Pepe/Berthiaume) failed by roll call vote: Berthiaume-yes, Hicks-no, Howard-no, Pepe-yes, Woodbury-no.*

*A motion to defer the request for a base fee of \$1,000 and the per unit fee of \$100;, and include only the peer review fee of \$2,000 (Pepe/Berthiaume) passed with a roll call vote: Berthiaume-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes.*

*A motion to table discussion on the other fees for up to six months (Pepe/Woodbury) passed with a roll call vote: Berthiaume-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes.*

## **New Business:**

### **Pine Grove Cemetery Discussion**

Ms. Berthiaume and Dr. Hicks recused themselves from the discussion as they have burial plots at Cemetery.

Lyn Stevens, Secretary/Treasurer for Pine Grove Cemetery reported that financial hard times continue for the cemetery and asked to have an Article on the Special Town Meeting Warrant for the Town to take over the financial and upkeep of the Cemetery. She emailed the financials for the previous five years to Mr. Gregory.

Mr. Woodbury pointed out that deed and other legal research are required prior to the Town considering taking over the facility. Mr. Gregory explained there will be considerable time and substantial legal considerations in negotiating conveyance of the Cemetery from privately held to the Town.

Ms. Stevens said they tried fundraising with minimal success. A solar facility was interested in building a solar battery storage site and decided not to move forward due to the high fees for solar in Spencer.

U & F Superintendent Bill Krukowski said the Highway does not have the capability to excavate the tombs or maintain the roadways in the Cemetery.

Ms. Stevens asked if the Town could investigate the cost to take over the Cemetery. Mr. Gregory said they could request a nonbinding question be placed on the November 3<sup>rd</sup> Election Ballot to determine if the citizens are interested in taking over the Cemetery. Ms. Stevens will review further with Mr. Gregory.

### **Review & Act on Request for Midstate Massive Ultra Trail Run on October 10-11, 2020**

Mr. Gregory noted that the Midstate Massive Ultra group is requesting use of various roads and portions of the Midstate Trail in Spencer for the Trail Run Race which took place last year.

Race Director Rich Mazzola reported that he expects 140 people to run through Spencer over a nine-hour period. Runners will be socially distanced by ten feet, have temperature checks, masks when passing other runners, and must certify they have complied with Massachusetts travel restrictions.

Health Agent Daoust said she does not have any concerns as they are following the proper protocols. Chief Darrin noted there was virtually no impact from this race last year.

*A motion to approve the Request for the Midstate Massive Ultra Trail Run on October 10-11, 2020 (Pepe/Woodbury) passed with a roll call vote: Berthiaume-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes.*

### **Discussion on Solar Facilities at 17 GH Wilson Road and 103 N. Spencer Road & Possible Action**

Dr. Hicks said he has been in contact with Town Counsel over issues with the solar facilities located at 17 GH Wilson Road and 103 N. Spencer Road, both owned by ZPT. There are concerns over lithium batteries on site without approval.

Mr. Gregory advised that issues relative to planning and zoning are separate from the PILOT agreement. Consultant Bill Mitchell works on behalf of the Town to ensure agreements are fair and at this time the Town and ZPT cannot come to an agreement. Bill Mitchell explained that the equipment valuation model is straightforward and has worked well with other projects, unfortunately, ZPT has a strong opinion and will not agree on depreciation, which includes equipment only. At this point the Board may decide to send a tax bill to ZPT, which they will then appeal to the Appellate Tax Board and will likely win based on previous cases. At that point, the Town can then appeal to the Supreme Court.

There was discussion on how decommissioning bond amounts are set. Mr. Dell'Aquila said a peer review consultant meets with a developer to review pricing and then makes a recommendation to the Town. Based on that amount, the Town Planner makes a recommendation to Planning Board and they vote on the bond amount. Mr. Dell'Aquila said

that all agree that the \$20,000 bond for N. Brookfield Road is too low and will ask for more going forward.

There was discussion on lithium batteries. Bill Mitchell said safeguards are in place, however that does not prevent an accident from happening. Chief Parsons said the batteries are fully sealed and alarmed by the solar company. The worst case would be for a fire to burn within the unit and the company would come in to remove and replace. The Fire Department does not handle these situations.

Brenden Gove from ZPT Solar called in to say that Spencer has a rigorous solar approval requirement and asked Mr. Mitchell to discuss the magnitude of differences regarding the two projects, noting there is a perception that he is not willing to negotiate a PILOT agreement. He believes a PILOT is in everyone's best interest and indicated that his issue is that 6% depreciation per year for ten years is not consistent with other fields in solar today. He wants to work on a deal and negotiate an agreement. Dr. Hicks asked Mr. Gove to contact Mr. Gregory to discuss further.

Matt Defosse, Paul's Drive said that solar projects depreciate over 69% and wants an attorney present during these negotiations. He also wants a solar moratorium.

### **Review & Act on Renewal Process for Charter Communications Franchise Agreement set to expire on January 31, 2023, in Accordance with Section 626(h) of the Cable Act**

Dr. Hicks reported that the Town's Cable License is renewed every ten years. Mr. Gregory noted negotiations will commence through an informal path which allows the Town to form a Committee to undertake an ascertainment process to determine what should be requested in the new Charter agreement. He asked the Board to think about who to appoint and make nominations at the next meeting. Mary Braney noted that Kyle Sullivan offered to serve as the SCA representative.

### **Review and Act on Browning Pond Land Management Agreement**

Dr. Hicks noted this has been an ongoing issue. After a meeting with representatives from the Department of Fish & Game an Agreement was drafted to install a temporary cartop ramp to allow boating access. Mr. Gregory said the Agreement was reviewed by Town Counsel. The Town will maintain the facility into the future.

*A motion to sign the Browning Pond Land Management Agreement (Woodbury/Howard) passed with a roll call vote: Berthiaume-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes.*

### **Review & Act on FY2021 Board Liaison Assignments**

The Board will continue with the same Liaison Assignments from the previous year. Selectman Howard will take over Warren Monette's assignments.

## **Review & Act to Open the November 12, 2020 Special Town Meeting Warrant**

*A motion Open the November 12, 2020 Special Town Meeting Warrant (Woodbury/Howard) passed with a roll call vote: Berthiaume-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes.*

Matt Defosse, 7 Paul's Drive asked if the recommendations of the Solar Bylaw Advisory Committee will be on the Warrant. A discussion will take place at the Planning Board hearing in October.

## **Discussion on CARES Act Funding Request from Bay Path Regional Vocational Technical High School**

Bay Path Regional Vocational Technical High School send a letter requesting that the Town consider providing a portion of the CARES Act Funds to assist them with their budget. They may receive their own funds as SEBRSC have their own CARES Act allocation.

Mr. Gregory noted that Chief Parsons is the lead on the CARES Act and COVID-19 reimbursements. Spencer is eligible to receive over \$1 million in funds under specific guidelines; the hope is that regulations will be revised to allow municipalities to repurpose some of the funds.

## **Discussion on Halloween and Possible Action**

Dr. Hicks said it does not appear that a traditional Halloween can take place this year. Ms. Berthiaume already sent notification that there will not be a Halloween Party, especially considering the gathering limit of twenty-five.

Ms. Daoust said she has been notified that the State will issue guidance soon and will advise the Board at that time.

## **Discussion on Safety Signs and Possible Action**

Dr. Hicks was approached by a Pleasant Street resident requesting a warning sign be placed by the dangerous curve of Pleasant and Grant Streets to alert drivers to slow down. Mr. Krukowski said signs of this nature are issued by the ZBA. He will research installing a crosswalk sign.

## **Town Administrator's Report**

### **Update on FY2021 Budget Projections/Adjustments**

Administrator Gregory reported that the Governor and Legislature are pledging to fund Unrestricted Aid and Chapter 70 Education Aid for the balance of the fiscal year. He is recommending local receipts be reduced by 10% (except for the Landfill Solar lease and the recurring bond premium), for a total revenue reduction of \$312,728.

Dr. Hicks said he is concerned about reductions to school district transportation and Circuit Breaker funding.

Mr. Gregory said the combination of level funding of state aid and reduction of local receipts makes up for loss of revenue and since the Board deferred \$300,000 for capital expenses, he recommends transferring the capital funds to help make up for the \$312,728 shortfall. In addition, the SEBRSD reduced the assessment by \$268,000, however he does not advise allocating the full amount since the District may ask for an increase in FY2022. He noted that Department Heads adhered to the request to freeze unnecessary spending and turned back over \$700,000 which will go into free cash. He is expecting the free cash to be certified at \$1.3 million and will provide an update at the next meeting.

### **Citizens Input**

Frank White said he has concerns over sewer usage for the proposed Rapsallion Brewery with an increase of over 3,000 gallons per day, noting that the sewer cannot handle this amount. Lake Street School and Sugden will have issues as well. Dr. Hicks suggests the Sewer Commissioners appeal to the State to allow a plant upgrade to ensure it is not absolute before it is built.

Mr. Woodbury pointed out there will be an addition of 1,100 gallons per day for the three proposed projects to come online. Dr. Hicks asked Mr. White to meet with the Developers and come to an agreement. Mr. Pepe said he does not want to see economic growth held back because of sewer capacity and wants to see a creative solution.

Matt Defosse said that 17 GH Wilson installed batteries without approval and that the SBAC recommendations must be implemented ASAP to protect the Town. He said he has questioned the legality of the N. Brookfield Road project for years. Their permits have expired and the applicant is not entitled to an extension on an expired project. If allowed, he wants details on the approval and questioned why abutters are being left in dark. Mr. Gregory said some of the questions have been addressed by Town Counsel. Mr. Pepe suggested Dr. Hicks review details with Mr. Defosse since he was the Selectmen's representative on the Solar Bylaw Advisory Committee.

Bill Shemeth recommended placing a flashing speed sign on Pleasant Street and said if the Pine Grove Cemetery is placed on the Ballot, there needs to be a cost listed. Another option would be to have a questionnaire go out with the census.

Danielle Gebo said the SCA live feed cuts out due to issues with Charter and asked the Board to look at their competition when renewing the license. Dr. Hicks will reach out to Charter relative to service issues. Ms. Gebo asked when the Town Hall will open to the public. The Board will discuss October 5<sup>th</sup>. She also asked the Board to consider providing the citizens with a rebate on their taxes using the Cares Act funds. Dr. Hicks said that would require a change in regulations by the Federal Government.

Jonathan Viner, 35 Donnelly Cross Road clarified that the reference to the Zoning Board of Appeals approval of roadway signs was inaccurate; the ZBA handles signage for everything except roadways.

### **Board Member and Staff Comments**

Selectmen Pepe said he hopes economic development projects will move forward. Mr. Woodbury wants to see a moratorium on solar projects and to have the Solar Bylaw redrafted.

The meeting adjourned at 10:03 pm.

Respectfully submitted,

Brenda Savoie  
Executive Assistant

Referenced documents: Zoning Board Fee Schedule; Charter Communications License Renewal; Browning Pond Land Management Agreement; Board Liaison Assignments; CARES Act Funding Request from Bay Path