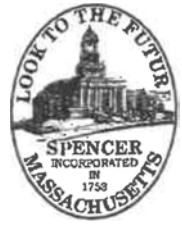


Minutes of the Meeting of the Board of Selectmen



Date: October 19, 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
Remote: Members Berthiaume and Pepe

Chairman Hicks called the meeting to order at 6:01 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, Pepe, and 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 September 14, 2020

This item was passed over.

Announcement: Town Ordered Auction on October 29th at 1 pm

Mr. Gregory announced that a Town Auction is scheduled on October 29th. Details may be found on the Town's website.

Citizens Input

None

Review and Act on Coronavirus / COVID-19 Response

Health Agent Daoust reported that the Town has 106 cases of Coronavirus with 2 active cases. Guidance from the CDC on Halloween remains the same.

Mr. Woodbury noted that Price Chopper is not as careful as Big Y in terms of cleaning and masks being worn by employees and feels they should be watched. Ms. Daoust has warned Price Chopper in the past that employees need to wear their masks and will follow-up again.

New Business:

Review and Act Review on Right of First Refusal for MGL Chapter 61A Land, Lot #3 and #4 Hastings Road and Gold Nugget (2 parcels, 1.38 acres each, map R44/36)

Attorney Phillip Stoddard called into the meeting to request that the Board waive the Right of First Refusal for Chapter 61A land and allow the owners to remove two ANR lots for Lot #3 and Lot #4 Hastings Road and Gold Nugget Road. The property is owned by the Bruso Family Trust, Joseph and Nancy Bruso and Roxanne Fleming.

Mr. Gregory reported that the Conservation Commission is not interested in this parcel and voted to recommend that the Town waive the Right of First Refusal.

A motion to waive the Right of First Refusal for MGL Chapter 61A Land, Lot #3 and #4 Hastings Road and Gold Nugget (2 parcels, 1.38 acres each, map R44B6) (Woodbury/Howard) passed with a roll call vote: Berthiaume-yes, Pepe-yes Howard-yes, Woodbury-yes. Hicks-yes

Pavement Study Presentation and Discussion

Bill Scarpati with Stantec presented a Pavement Management Update. He reported that Spencer has a growing roadway repair backlog. In 2018, the FMPC construction project began to address some of the issues, nevertheless, a backlog of work continues. He recommends that the Town increase roadway funding to at least \$1 million per year over a six -year period, or \$1.5 million per year for three years.

Dr. Hicks asked if that figure included Chapter 90 funds; Mr. Scarpati said it did.

Mr. Pepe asked how other towns address road deficits given the limited funds available throughout the State. Mr. Scarpati said mainly through the tax base along with some grants.

The Board will take the recommendations under advisement.

Review and Act on Request to Sign Sewer Design Bond Anticipation Notes (BAN)

Mr. Gregory reported that voters authorized \$1.68 million for design and rehab of the sewer system and advised the Board that signing the Bond Notes is the next procedural step.

A motion to Sign the Sewer Design Bond Anticipation Notes (BAN) (Woodbury/Howard) passed with a roll call vote: Berthiaume-yes, Pepe-yes Howard-yes, Woodbury-yes. Hicks-yes

Policy Introduction: Police Department Crowds & Demonstrations

Chief Darrin drafted the Crowds & Demonstrations policy as a proactive measure; although there is the right for lawful assembly, some situations require police involvement and this policy addresses limits that will protect the entire community.

Policy Introduction: Police Department K-9 Unit

Chief Darrin drafted a Police Department K-9 Unit policy. The Department is researching the purchase of a German Shepard for use in multiple police situations. Grants are available for startup costs and he may have something in place in the spring of 2021.

Review and Act on the 2020/2021 Winter Parking Ban

Chief Darrin reported there are no changes in the Winter Parking Ban from last year.

Mr. Howard asked about limiting the parking at the beginning of the intersection on School Street. Chief Darrin said parking is not allowed within fifteen feet of the intersection and *if* someone does park there, they will be ticketed.

A motion to approve the 2020/2021 Winter Parking Ban (Woodbury/Howard) passed with a roll call vote: Berthiaume-yes, Pepe-yes Howard-yes, Woodbury-yes. Hicks-yes

Review and Act on Sewer Indirect Costs and Request for Town Counsel Services

Mr. Gregory contacted the Town's Auditor, Tom Scanlon of Scanlon and Associates on this request and his opinion is that legal services should be paid directly from the Water or Sewer enterprise funds.

Dr. Hicks noted that Town facilities rely on sewer and he would like to provide a small number of legal hours for preliminary legal advice to the Water and Sewer Department.

Mr. Pepe said he is not in favor of providing funds and believes being an enterprise fund, any fees should come from that fund. Ms. Berthiaume agreed. Mr. Woodbury noted that Water and Sewer rate users pay services and taxes and agrees with providing a capped amount. Mr. Howard said providing them with a small budget for legal fees may help to ensure they are not afraid to call for legal service.

There was discussion on providing eight hours of legal guidance per year. Mr. Gregory advised that a maximum of eight hours per year be allowed for operational guidance.

A motion to allow up to eight hours of legal consultation per year for Water and Sewer (Woodbury/Howard) passed 3-2 with a roll call vote: Berthiaume-no, Pepe-no, Howard-yes, Woodbury-yes. Hicks-yes.

Discussion on Open Meeting Law Complaint (has been withdrawn) Re: September 24th Board of Selectmen's Special Meeting Posting

The Town received an OML complaint which was later withdrawn by the complainant. The complaint stated that the agenda was not posted within the required 48 hours and proof that it was posted more than 48 hours in advance was provided to the complainant.

Dr. Hicks noted that the Board and the Administrator's Office work hard to be transparent and would never hold a meeting without proper posting.

Old Business:

Discussion on Halloween and Possible Action

The Board discussed ways to safely allow a traditional trick-or-treat. Chief Darrin recommended placing treat bags on the steps or at end of the driveway and extending the typical one-hour event to a two-hour period. Health Agent Daoust noted the CDC considers door-to-door to be a moderate risk activity. Mr. Pepe would like a reverse 911 call to residents outlining safety guidelines for those who wish to participate.

A motion to allow trick-or-treat for two hours per Chief Darrin's recommendation (Berthiaume/Pepe) passed 3/2 with a roll call vote: Berthiaume-yes, Pepe-yes Howard-yes, Woodbury-no. Hicks-no.

Motion amended to allow trick-or-treat for one hour from 5:30 to 6:30 pm (Pepe/Berthiaume) passed 4/1 with a roll call vote: Berthiaume-yes, Pepe-yes Howard-yes, Woodbury-no. Hicks- yes

Update on 51 Borkum Road Zoning Compliance Matter

Mr. Gregory reported that the property owner of 51 Borkum Road applied for a Special Permit to request permission for the storage of large trailers on the property. This has been a sensitive issue for the residents of Borkum Road and a public hearing will be held on the Special Permit application.

Dr. Hicks said he is committed to putting a stop to people conducting activity that is not an allowed use and seeking permission after the fact.

Town Administrator's Report:

Review & Act to Close and Sign the November 12, 2020 Special Town Meeting Warrant

Mr. Gregory reviewed the final draft of the Annual Town Meeting Warrant which reflects action taken by the Capital Improvements Planning Committee (CfPC) at their meeting on October 22nd. The Warrant has been reviewed by Town Counsel, Town Clerk, and Moderator. The twelve articles were reviewed with comments on the following:

Article 4 – Reserve Fund Transfer – funds transfer may not be needed, if not it will be available for the remainder of the year.

Article 6 – Stabilization Fund - the CfPC voted to hold off on funds for the Salt Shed and instead appropriate \$251,740 into Stabilization.

Dr. Hicks said he was concerned about the Library HVAC system and wants to see that system upgraded due to the ongoing issues with heating and cooling. Mr. Gregory said the project will be put out to bid to determine the amount to bring before Town Meeting in May

Article 11 – appropriates \$14,000 to purchase new voting booths. Mr. Gregory explained that the existing booths are functional, however former Town Clerk Laura Torti requested new booths be purchased which will be quick to set-up and breakdown.

Article 12 - Zoning Amendment - is for a 1-year moratorium on solar. If the Planning Board decides to amend the solar bylaw and not move forward with the moratorium, the Board will hold another special meeting to sign a new Warrant.

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

Review Special Town Meeting Calendar

The calendar was reviewed.

Update on U & F Superintendent Position Opening
Update on ODIS Director/Town Planner Position Opening

Mr. Gregory reported that a few resumes have been received for both the U & F Superintendent position and the ODIS Director / Town Planner position. A hiring committee will be formed which will include two Select Board members. Dr. Hicks and Mr. Woodbury want to be on the search committees and Mr. Pepe wants to be on the Town Planner search committee.

Citizen's Input

Bill Shemeth suggested considering those currently holding positions in ODIS as the Director. Dr. Hicks plans to review job descriptions of other positions in ODIS.

Christine Mancini, 55 Borkum Road urged Planning and Zoning Board members do a site visit prior to the hearing on the Borkum Road Special Permit.

Matt Defosse, Pauls Drive noted that over sixty containers storing solar equipment were located on the Borkum Road property. He urged residents to pay attention to the land use in Town.

Board Member and Staff Comments

Mr. Pepe thanked Paul Dell'Aquila for his service to the Town and his work on economic development.

Ms. Berthiaume thanked Paul Dell'Aquila and Bill Krukowski and offered her best wishes.

Dr. Hick wants a discussion on preparing to reopen Town Hall on the November 9th agenda.

Request for Executive Session under Mass General Laws, Chapter 30A, §21(a) (3), to discuss strategy with respect to litigation in the matter of S-Bank LLC v. Town of Spencer, Worcester Superior Court, C.A. 19-10670.

At 8:55 pm a motion to enter into executive session under Mass General Laws, Chapter 30A: §21(a), 1J3: to discuss strategy with respect to litigation in the matter of S-Bank LLC v. Town of Spencer, Worcester Superior Court, C.A. 19-10670 (Howard/Woodbury) passed 5/0 with a roll call vote: Berthiaume-yes, Hicks-yes, Monette-yes, Pepe-yes, Woodbury-yes

A motion to adjourn the meeting (Howard/Woodbury) passed 5/0 with a roll call vote: Berthiaume-yes, Hicks-yes, Monette-yes, Pepe-yes, Woodbury-yes

The meeting adjourned at 8:55 pm.

Respectfully submitted,

Brenda Savoie
Executive Assistant

Referenced documents: Right of First Refusal, Pavement Presentation, Police Policies on Crowds and Demonstrations and K-9 Unit, Winter Parking Ban, OML Complaint, Special Town Meeting Warrant and FY2021 Budget