



Minutes of the Meeting of the Board of Selectmen

Date: May 24, 2021
Time: 6:00 p.m.
Place: Audioconference Broadcasted Live from McCourt Social Hall
Memorial Town Hall, Spencer, MA
Present: Chairman Woodbury, Vice-Chair Howard, Clerk Grigg, Members Howard
and Pepe.
Also remote: Health Agent Daoust

Chairman Hicks called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance. He 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.

Review & Act on Reorganization of the Board – Nominate Chairman, Vice Chair, & Clerk

Dr. Hicks welcomed Jared Grigg as a member of the Board of Selectmen.

A special meeting will be held on Thursday, May 27th to set a recount date for the Town Clerk.

A motion to nominate Gary Woodbury as Chairman (Hicks / Howard) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

A motion to nominate as John Howard as Vice-chairman (Woodbury / Hicks) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

A motion to nominate Jared Grigg as Clerk (Hicks / Howard) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Review and Act on Meeting Minutes of May 3, 2021

A motion to approve the meeting minutes of May 3, 2021 (Hicks / Howard) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Citizens Input

Bill Shemeth, 6 Dale St., stated that now is the time to allow in-person meetings with the public and noted that the Town Administrator search needs public involvement and committee. Chairman Woodbury said all meetings will be fully open for the public in June.

Matt Defosse, Pauls Drive, expressed concern over the high cost of the brush chipper at \$52,000. He suggests the purchase of a used one for approximately \$25,000. Mr.

Woodbury explained that public procurement laws and safety features, all play a part in the purchase.

Carol McPherson, 125 Pleasant St., read a statement regarding the Pine Grove Cemetery Petition. She noted that the Petition was signed by 100 people, yet the language placed on the Annul Town Meeting Warrant was different than it was on the Petition, and it is her understanding it must be placed on the Warrant as it was written (the language was changed per Town Council's instructions). Ms. McPherson said that Town Council provided an explanation that did not make sense and she believes Statute is clear that a Petition needs to be placed on the Warrant as written. She would like a clear answer as to why this occurred. Dr. Hicks noted that KP Law advised that the change was needed since the Petition was not in the form of a question, therefore it had to be reworded. He will get more details from emails sent between Mr. Gregory and Town Council.

Review and Act on Coronavirus / COVID-19 Response

Health Agent Daoust reported:

- There has been a total of 885 Coronavirus cases, with 10 active.
- Residents aged 12 and older may be vaccinated at the Rutland Clinic.
- As of May 29th, all remaining COVID-19 restrictions will be lifted and the face covering order rescinded.
- The Public Health Nurse will keep track of Coronavirus cases through the State system and will no longer be reported to the Board of Health.
- The reverse 911 calls will end.
- Ms. Daoust will provide the Board with a quarterly update going forward.

New Business

6:05 pm - National Grid Pole Hearing Review & Act on Request of to Install (2) JO Poles and Relocate (3) JO Poles on McCormick Road Plan No. 30196006

Chairman Woodbury opened the hearing at 6:26 pm and noted that a Tree Hearing was held at 5:00 pm and no objections were raised.

The hearing was open for public comment at 6:27 pm.

Highway Foreman Eben Butler noted his objection over the removal of twenty trees to install one pole. He wants National Grid's plan for replacement of those trees and to ensure stump grinding is done for all trees being removed. He also has concerns over poles being installed too close to the road, noting one pole was only two feet off the road and mentioned issues with reflectors on the poles.

Josh Pacheco, representing National Grid asked Mr. Butler to email him his concerns and the details on poles numbers.

Kyle Chabot, representing National Grid said he will follow up with Carl Hartwig to address Mr. Butler's concerns.

Bill Shemeth, Dale St. said he agrees with Mr. Butler that the removal of twenty trees with no plan to replace is concerning. He suggested the Board postpone the hearing until a replacement plan can be reviewed.

Brandie Tarantino, representing National Grid agreed to work with Tree Warden Ray Holmes on the tree planting replacements.

Chairman Woodbury said he wants all double poles removed and will not approve any new pole installations until that is in process. He noted that the solar developer paid National Grid, but did not pay Verizon or Spectrum, therefore they are in no rush to remove the equipment or poles.

Mr. Pepe said that while he appreciates National Grid's efforts, a process was established to address double poles several years ago and it is not being followed.

Dr. Hicks shared the concerns with double poles, however indicated that this petition should move forward and address the double pole issue at a later time. He suggested scheduling a meeting with National Grid, Verizon, and Spectrum.

Jeff Silva, representing National Grid said he will reach out to his management to contact Verizon on the removal of double poles. He will also ensure that the pole location will be pushed back further from three feet to five feet off the road, per Mr. Butler's request.

Dr. Hicks asked if National Grid remove Verizon's equipment from the poles since they are jointly owned. Mr. Silva said they cannot touch other vendors equipment.

U & F Superintendent Bill Cundiff suggested holding off on this pole petition and instruct National Grid to contact Verizon and come back after this issue is resolved.

Tatyana McAuley, McCormick Road asked the Board not to hold the approve of this petition since the location is based on her request and the issues being discussed are unrelated.

A motion to close the public hearing at 7:12 pm (Pepe/Hicks) passed 5/0 with a roll call vote Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

A motion to approve the pole petition with condition that National Grid, Verizon, and Spectrum meet with Chairman Woodbury and Dr. Hicks within 45-days and that National Grid make that happen; also subject to the tree replanting plan and pole installations set a minimum of five feet off the road (Hicks / Howard) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Mr. Silva will contact management at National Grid to coordinate a meeting with National Grid, Verizon, and Spectrum.

Dog Hearing 6:15 p.m. Review & Act on the Appeal from Shawn Hoffner on the Animal Control Officer's Determination of a Vicious Dog - Pursuant to Article 9A, Section 3 of the General Bylaw

Chairman Woodbury opened the hearing at 7:20 pm.

Animal Control Officer (ACO) Joelyn Durgin reported that she received a call that two dogs were fighting at 62 Bacon Hill Road and by the time she arrived, the dogs were in cages inside house. There are three dogs at that location owned by Shawn Hoffner. One of the dogs involved in the fight was led outside by a twelve-year-old and one dog was already outside when the fight broke out. Mr. Hoffner told the ACO that his daughter should not have handled the dogs.

Based on this incident, Ms. Durgin feels the aggressive action is a public safety concern and is asking for the following restrictions:

1. Deem "Kane" and "Axel" Dangerous dogs
2. Muzzle both dogs at all times while in public
3. Dogs cannot be handled by anyone under eighteen years old
4. Dogs must be restrained with proper leash in accordance with the Town Bylaws
5. The owner must display a warning sign of "dangerous dogs" on property
6. The owner must procure liability insurance policy (proof has already been provided)
7. When off leash, the dogs must be confined in a suitable containment area
8. Provide new photos annually of the dog at time of licensing

Dog owner Shawn Hoffner who requested this appeal hearing was not present.

A motion to approve the ACO's designation of "dangerous dog" for Axel and Kane (Pepe/Hicks) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Dog Hearing 6:30 p.m. Review & Act on the Appeal from Arleen Lugo on the Animal Control Officer's Determination of a Vicious Dog - Pursuant to Article 9A, Section 3 of the General Bylaw

Animal Control Officer (ACO) Joelyn Durgin reported that she received a call on January 20, 2021, that a dog bit a person in the ear at 15 maple Street and was sent to the hospital by ambulance. The dog is owned by Arleen Lugo and is named "King". Upon her arrival, the dog was secured in the home and was quarantined there for ten days. The following day she returned to complete a bite report and was told by the Lugando Flores that the dog was on his couch and is territorial when on the couch. The neighbor (Yadiel Mendez) was visiting, and the dog went across the room and bit him in the ear, removing a chunk of skin. ACO Durgin said the action was very aggressive and she felt the dog needed to be deemed vicious.

Ms. Lugo indicated that the neighbor who was bit visited multiple times and never had an issue with the dog. On that day, he dropped his phone and startled the dog who and went across the room and bit him. She said the dog is alert, but not aggressive.

Mr. Woodbury asked if the dog is dog kept in the house most of the time. Ms. Lugo said he is and is normally handled by her and her boyfriend. He is always tied up or on a leash, otherwise he will escape.

The dog was not licensed; however, he is up to date on the rabies vaccination. Based on this incident, Ms. Durgin is asking for the following restrictions:

1. Deem "King" as a Dangerous dog
2. Muzzle the dog at all times while in public
3. Dog cannot be handled by anyone under eighteen years old
4. Dog must be restrained with proper leash in accordance with the Town Bylaws
5. The owner must display a warning sign of "dangerous dogs" on property
6. The owner must procure liability insurance policy (not required)
7. When off leash, the dogs must be confined in a suitable containment area
8. Provide new photos annually of the dog at time of licensing

Ms. Lugo said she is looking into training, however due to the expense she is figuring it out on her own. ACO Durgin said her concern is the dog went directly to the bite with no growl or warning. She recommends Ms. Lugo research dealing with a dangerous dog.

Mr. Woodbury indicated that he believes this is different from the previous situation. Dr. Hicks said had experience with a dog bite due to unusual circumstance and suspects this may have been a onetime deal. Mr. Pepe requests that the dog be muzzled dog when out in public.

Ms. Lugo said she purchased a muzzle in the event the Board required it. She pointed out that she owned dog for five years and has never had an issue before.

Ms. Durgin suggested the dog be deemed a vicious dog with the following restrictions.

1. Muzzle the dog while in public
2. No one under eighteen years old be allowed to handle the dog
3. Dog be restrained with proper leash as outlined in the Bylaws
4. Display a warning sign of "dangerous dog" on property
5. Dog cannot be let loose or unattended when loose
6. Recommends liability insurance to protect owner if the dog bites again
7. When off leash, the dogs must be confined in a suitable containment area
8. Provide new photos annually of the dog at time of licensing

A motion to deem the dog "King" as dangerous, with items 1,2,3,4,5, and 7 (as outlined above) (Hicks/Howard) passed 5/0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Dog Hearing 6:45 p.m. Review & Act on the Appeal from Britnie Cournoyer on the Animal Control Officer's Determination of a Vicious Dog - Pursuant to Article 9A, Section 3 of the General Bylaw

Animal Control Officer (ACO) Joelyn Durgin reported that she received a bite report on the dog owned by Britnie Cournoyer named "Ace". When Ms. Cournoyer's father tried to change a flat tire, the dog bit him in arm and required eleven stitches. Ms. Cournoyer purchased a muzzle for the dog and is obtaining training. The concern is with the severity of the bite and wants to place a dangerous dog designation on this dog.

Ms. Cournoyer said she took the dog in to work with him since he is fearful of strangers. The incident occurred when her father was changing the tire and tried to pet the dog. The dog was startled with the traffic and the circumstances caused him to bite. As soon as they yelled his name, he released and showed no other signs of aggression. The dog has a private trainer and Ms. Cournoyer does not want him labeled as dangerous, or any restrictions placed on him.

Ms. Durgin suggested the dog be deemed a dangerous dog with the following restrictions.

1. Muzzle the dog while in public
2. No one under eighteen years old be allowed to handle the dog
3. Dog be restrained with proper leash as outlined in the Bylaws
4. Display a warning sign of "dangerous dog" on property
5. Dog cannot be let loose or unattended when loose
6. Recommends liability insurance to protect owner if the dog bites again
7. When off leash, the dogs must be confined in a suitable containment area
8. Provide new photos annually of the dog at time of licensing

Mr. Woodbury expressed concern that there is no history on the dog, who is three years old. Dr. Hicks suggested revisiting in a year when there is more history on the dog. Ms. Durgin said they can revisit in a year. Mr. Grigg asked if Ms. Cournoyer intervened when the dog bit. Ms. Cournoyer said after she called his name he let go and focused on her and remained calm for remainder of interaction. She pointed that the bylaw states an animal should not be declared vicious if startled. She also is safely qualified to handle him with her degree in animal care.

Mr. Pepe said his priority is to protect the public and is open to reevaluating in a year.

A motion to approve the dangerous dog designation for ACE and may reevaluate next year (Pepe/Hicks) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Review and Act on Request from the Spencer Agricultural Association for an Entertainment License to hold a Camping Event at the Spencer Fairgrounds on August 20 & 21, 2021 for Terptown Throwdown Attendees

A motion to approve the on request from the Spencer Agricultural Association for an Entertainment License to hold a Camping Event at the Spencer Fairgrounds on August 20 &

21, 2021 for Terptown Throwdown event (Hicks/Pepe) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Mr. Grigg asked if a member of the Fire Department will be present. Mr. Knight said he spoke with Chief Parsons and was informed that they do not need one on site.

Mr. Pepe asked if there will be marijuana consumption on site. Acting Town Administrator David Darrin said there will be no product onsite; the only consumption will be allowed by individuals with an approved medical card.

Review and Act Request from Premier Dance Academy for a One-day Alcohol License for Dance Shows on June 19, 2021, at the Spencer Fairgrounds

Christina Gagnon with Premier Dance Academy requested approval for a one-day alcohol license for dance recitals for children up to age eighteen.

Mr. Pepe asked if the alcohol is contained to one area. Administrator Darrin said it will be segregated to one area.

Dr. Hicks expressed concern that alcohol is being served at a children's event noting he finds it unusual and does not think it is a good example to set for the children. Ms. Gagnon said parents enjoy having the alcohol and requested it.

A motion to approve request of Premier Dance Academy for a One-day Alcohol License for Dance Shows on June 19, 2021, at the Spencer Fairgrounds (Pepe/Grigg) passed 4/1 roll call vote: Grigg-yes, Hicks-no, Howard-yes, Pepe-yes, Woodbury-yes

Review & Act to Authorize the Expenditure of Deer Run Surety Funds in Accordance with MGL 41, 81U

Town Planner Todd Miller reported that the release funds from Deer Run Phase I and II will allow for repairs to be made. Dr. Hicks explained the primary concerns are with culverts and iron grates against the road with asphalt which are starting to collapse. There are also issues which need to be done in Phase II, including digging ¼ mile pavement and adding a base and finish coat and installing a guardrail. There are funds in escrow to cover most of the initial costs, plus the proceeds from the sale of building lots can be added to Phase II.

Chairman Woodbury noted that that the General Bylaws authorize the Select Board to use the funds. Utilities and Facilities Superintendent Bill Cundiff noted that the Planning Board has jurisdiction over the Deer Run funds and will need to work with Mr. Miller to develop a plan to expend the funds and report back to the Board. Mr. Miller agreed and pointed out that expedience is necessary.

Planning Board Chair Jonathon Viner noted that the Planning Board needs to address the immediate safety concerns and anything beyond that will be addressed in terms of technical and legal aspects.

A motion to make emergency repairs at Deer Run Subdivision, including guardrail installation and anything deemed a safety hazard by Bill Cundiff and Eben Butler (Hicks/Howard) passed 5/0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Mr. Woodbury said he disagrees that jurisdiction falls under the Planning Board. In accordance with the General Bylaws the Town Administrator as the Chief Procurement Officer can administer these funds on behalf of the Planning Board. He recommended the motion be revised to indicate authorizing the expenditure of the Deer Run security funds in accordance with MGL Chapter 41, Section 81 U, to have the Town Administrator as Chief Procurement Officer to administer the funds on behalf of the Planning Board.

The motion was revised to authorize the expenditure of the Deer Run security funds in accordance with MGL Chapter 41, Section 81 U, to have the Town Administrator as Chief Procurement Officer to administer the funds on behalf of the Planning Board (Hicks/Pepe) passed 5/0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes.

Mr. Miller said he will work with the Planning Board to get this done.

Update on the COVID-19 Local Rapid Recovery Plan (LLRP)

Mr. Miller reported that a presentation on the recovery is the first step in the LLRP process.

Rhiannon Sinclair, Senior Planner from the Department of Housing and Community Development (DHCD) presented details on the LLRP and explained the Spencer was one of fifty-two small communities in Massachusetts to reach out to the State for assistance with COVID-19 recovery. The LLRP team will work to understand the needs of the businesses in Spencer and produce a personalized guidebook to assist with post COVID recovery. The Spencer Economic Development Committee is important to this effort.

Dr. Hicks noted that Five Loaves Bakery was the only restaurant to close in Spencer due to COVID.

Mr. Pepe asked what type of projects are expected to come from the analysis. Ms. Sinclair said there are no concepts yet, however there may be an opportunity to provide a means to for businesses to expand and focus on business improvements with no interest loans, including loans for façade improvements. Mr. Pepe suggested any assistance moving forward with three major projects: CVS, Lake Street Development, and Sugden Building, will be beneficial to the Town. He also suggested working with the Fairgrounds as a location to help promote Spencer.

Ms. Sinclair said the next step will be community outreach to work towards project recommendations.

Review & Act to Schedule a Meeting with Congressman McGovern and Congressman Neal to Discuss the Sewer Construction Project

Dr. Hicks suggested that Congressman McGovern and Congressman Neal may provide assistance from the State to relieve some of the ratepayer costs for the sewer construction project. With the Board's support, he will reach out to coordinate a meeting.

A motion to schedule a meeting with Congressman McGovern and Congressman Neal to discuss the sewer costs (to ratepayers) for the sewer construction project (Hicks/Grigg) passed 5/0.

Mr. Pepe suggested inviting the Legislative Delegation as well.

Discussion: Community Preservation Act Relative to Pine Grove Cemetery and Old Cemetery

Dr. Hicks said he is speaking as private citizen since he owns plots at the Pine Grove Cemetery. He mentioned that Community Preservation funds can be used for old cemeteries and would like to explore further with the Delegation and the Interim Town Administrator.

Mr. Shemeth noted it provides an opportunity to explore potential receive funding from the State.

Review & Act on Pine Grove Cemetery Acquisition Non-Binding Ballot Question

Dr. Hicks said he is speaking once again as private citizen on this item. Considering the Town voting three to one to acquire Pine Grove Cemetery, the best solution is to create a seven-person study committee with Lyn Stevens as an ex officio member, a member of the Select Board, a member of the Finance Committee, two citizens-at-large, the Utilities and Facilities Superintendent and the Town Administrator.

Mr. Woodbury noted that legal questions still need to be answered. Dr. Hicks said the title search can be done simultaneously and suggests having a Proposition 2 ½ Override which will be less than \$5.00 on average home.

Mr. Grigg said he is not a fan of acquiring an active cemetery, however with the votes as they are, further research is warranted.

A motion to establish a committee to study the acquisition of Pine Grove Cemetery (Pepe/Grigg) passed 5/0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Ms. Stevens said that Mary Baker-Wood would like to be on it the committee.

Discuss Notification from Senator Gobi Relative for (possible) State Funds for Woodchipper, Hook & Go Truck, & New Building at the Fairgrounds

Dr. Hicks reported that Senator Gobi is willing to add items to State budget to cover 100% of the cost of a woodchipper, a hook & go truck, & a new building at the fairgrounds. If approved, it will save the Town \$150,000.

Review & Act on Brush Chipping Service for Residents

Dr. Hicks would like to vote to ask Superintendent Cundiff to schedule chipping days at the Transfer Station to allow residents to bring brush to be chipped on site. He will discuss the process with Mr. Cundiff.

A Motion to add brush chipping service at the Transfer Station for two days in June and two days in October at the discretion of the U & F Superintendent (Hicks/Pepe) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Review & Act to Appoint a member of the Board of Selectmen to Serve on the SEBRSD Building Committee

Dr. Hicks said now that Ms. Berthiaume is no longer on the Board, there is a vacancy on the SEBRSD School Building Committee. He is interested in serving and he has been involved with building three schools.

A motion to appoint Ralph Hicks as the liaison of the Board of Selectmen to the SEBRSD School Building Committee (Pepe/Howard) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

Review & Act to Set Salary Range for New Town Administrator

Dr. Hicks reported that the average Town Administrator salary in the area is \$120,000 to \$150,000. Community Paradigm Associates recommends a range between \$130,000 to \$150,000. Mr. Woodbury suggests a range of \$120,000 to \$140,000 and reminded the Board there are additional benefits.

A motion to set the salary range for the new Town Administrator between \$125,000 to \$145,000 (Hicks/Pepe) passed 4-1 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-no

Review & Act to Authorize a Qualified Individual to Assist with the Transition to a New Town Clerk

Dr. Hicks said former Interim Town Clerk Lisa Johnson is willing assist with the transition to the new Town Clerk during the first two weeks of July. Since she is already familiar with the Town, the Board agreed.

Review & Act on PILOT Agreement for 20 & 32 McCormick Road

This item was passed over until the June meeting.

Review & Act on Mosquito Spraying in Spencer

Dr. Hicks received a call from Nancy Tame concerned that mosquito spraying kills bees and harms the environment.

Citizen's Input

Matt Defosse, Paul's Drive, said he would like clarification on the figures provided to the Town for PILOT agreements.

Board Member and Staff Comments

Mr. Pepe noted that there is currently a legal review of the Lake Street School Lease Agreement since the Women's Institute wants to sign their rights over to MHPI.

Adjournment

A motion to adjourn at 10:10 PM (Pepe / Howard) passed 5-0 with a roll call vote: Grigg-yes, Hicks-yes, Howard-yes, Pepe-yes, Woodbury-yes

The meeting adjourned at 10:10 PM.

Respectfully submitted,

Brenda Savoie
Executive Assistant

Referenced documents: National Grid Pole Petition; Dog Appeals: Shawn Hoffner; Arleen Lugo; Britnie Cournoyer; Agricultural Association Application; Premier Dance Academy Application; Pine Grove Cemetery Non-Binding Ballot Question