

Minutes of the Meeting of the Board of Selectmen

Date: May 23, 2022
Time: 6:00 p.m.
Place: McCourt Social Hall
Memorial Town Hall, Spencer, MA
Present: Chairman Gary Woodbury, Selectmen John Howard, Tony Pepe, Jared Grigg, Ralph Hicks
Remote: None.

Chairman Woodbury called the meeting at 6:00 PM.

Chairman Woodbury then asked the attendees to rise for the pledge of allegiance.

Review and Possible Action on Meeting Minutes of May 9, 2022

Selectmen Hicks made a motion to approve the minutes as amended, Selectmen Howard Seconded the motion. The motion passed 5-0.

Citizen's Input

Bob Cirba first stated that he agreed with Chairman Woodbury that the Town Meeting quorum should not be lowered because it allows for fewer people to make decisions for the entire town. His second topic was transparency. He brought up the road project and the issues with the paving project. He asked how pipes in the school had frozen and questioned the reaction by the school officials including having an illegal meeting to address the issue of the frozen pipes. Mr. Cirba went on to question the placement of the pre-school in the high school as proposed by the high school renovation project and the total cost of \$114 million of the project. He stated that Selectmen Hicks when he was a Superintendent was not in favor of such an idea.

Mr. Cirba also asked why the forensic audit never took place. He mentioned when the school did a forensic audit, they found \$93,000 in just one department and launched an investigation.

His next topic was the sale of the Sugden Building and why was it sold for \$50,000 when the assessed value so much higher including adjacent properties that were sold for much more including the CVS site. He also mentioned the sale of the Lake Street School and thought it was not done to the benefit of the Town.

Finally, Mr. Cirba brought up the issue of the Selectmen discussing premium pay for town employees that worked through the pandemic and asked what will be done for businesses and requested to be appointed to the Economic Development Committee.

Selectmen Hicks then asked the Chair to be heard on citizen input as a resident to address some of the comments made by Mr. Cirba.

Dr. Hicks stated that he is favor of moving the pre-school to the high since they are overcrowded at their current location and the high school design will provide for separation of the pre-school

wing with the rest of the building. The Chapter 74 program will attract students from other towns to DPHS, which will bring school choice funds in rather than have it go to other districts. If the building project was done ten years as originally proposed, the cost would be half of what is currently projected.

He further stated that the Town did not sell Lake Street School but proposed a 99-year lease since no-one will know what the town will look like in 99 years and that proposed lease allowed the Town to retain ownership of the land for possible use later.

Finally, he stated that the issue with the DPHS heat was not due to the new controller system but was an issue with the piping in the building. He is tired of character assassinations from people who do not have all the facts.

Carl Kwiatkowski, 113 Meadow Road stated that the drivers on Meadow Road are going too fast and asked the Board to lower the speed limit noting that 40 mph was fine when there were no houses, but now with the houses it needs to be reviewed again. Chairman Woodbury went over the process of how a speed limit is reduced and asked the Town Administrator review with the Chief of Police.

Matt Defosse, 7 Paul's Drive asked about the library HVAC project and asked that ARPA funds be used for the project. He would like the Town to put information out about this issue.

Town Administrator Jeff Bridges stated that the bids for the for the library HVAC system came in substantially over budget. The Town has allocated ARPA funds to the Sewer Department's inflow and infiltration study and to the Board of Health public nurse expenses. The Board will receive a report on the use of the ARPA funds later this week.

Chairman Woodbury stated he is concerned about the structural soundness of the building more than the HVAC system.

Al Atchue, Meadow Road: at the last meeting there was conversation about the Fairgrounds and the events. He said that the person at a prior meeting stated that the residents need to learn to live with it. He expects noise around Labor Day and during the Fair and stated that the neighbors have a right to complain, and people may disagree, but still need to respect one another. He also stated the speed on Meadow Road is fast. He needs to cross the street and it is difficult with the speed. He does not think 40 mph is excessive but is something they have to live with.

Selectmen Pepe asked that the Town post the speed signs on Meadow Road. Chief Darrin acknowledged that he would set up the speed sign.

6:00 pm: National Grid Pole Hearing - Act on Request of National Grid to Install (1) SO Pole on Rene Drive - Plan no. 30556630

The Board then opened the National Grid Pole Hearing for Renee Drive. This pole is being placed to provide power to Luther Hill Park. Abra Seng attended to represent National Grid. The Board received a letter from Rob Churchey, Chairman of the Parks and Recreation Commission in support of the pole location since it is at their request.

Mr. Seng stated that request is to add power to Luther Hill Park on Rene Drive. The pole will be for electrical wires only and be between two other poles.

The Board opened the public hearing.

Chairman Woodbury read the letter from Robert Churchey, Chair of the Parks and Recreation Commission into the record.

Marty German, Parks and Recreation Commissioner spoke on behalf of the project and told the Board there is no charge to the project. Also, this pole can provide power to the Fire Department's equipment that is currently solar powered as a back-up power supply.

With no further public comment, Selectman Hicks made a motion to close the public hearing. The motion was seconded by Vice-Chair Howard. All members present voted in favor.

Selectmen Hicks made a motion to approve the pole location as requested, motion seconded by Vice-Chair Howard. The motion was approved 5-0.

Chairman Woodbury reviewed the communications the Board received:

- A letter from CSX Transportation about 2022 vegetation management along the railway.
- Notice of rate increase from K-P Law, the Town's legal counsel. Both Chairman Woodbury and Selectman Hicks would like to discuss at a future meeting.

Chairman Woodbury also reminded the audience of the Annual Town Meeting to take place on June 23, 2022, at 7:00 PM in the Great Hall at Town Hall.

Review & Possible Action on the Request of the American Legion for One-day Special Alcohol License for Veteran Cornhole Tournament to be held on June 11, 2022 from 10 am to 4 pm

The request of the American Legion for a one-day Special Alcohol license for a Veteran's Cornhole Tournament on June 11, 2022 from 10 am to 4 pm on a motion by Selectman Hicks, seconded by Vice-Chair Howard, to approve the request. The motion passed 5-0.

Review & Possible Action on the Request of the American Legion for One-day Special Alcohol License for the Veteran Memorial Ride to be held on August 13, 2022 from 10 am to 5 pm

The request of the American Legion for a one-day special alcohol license for a Veteran Memorial Ride to be held on August 13, 2022 from 10:00 AM to 5:00 PM. The motion to approve was made by Selectman Pepe, seconded by Selectman Grigg, and passed 5-0.

Review & Possible Action on Request from Ahern Equipment, Inc. to Amend the Class I Agent and Seller License

The Board then considered a request from Ahern Equipment, Inc. to amend their Class 1 Agent and Sellers license. The change was to remove Donna Ahern from license.

Selectman Hicks made the motion to approve, seconded by Selectman Grigg, and passed 5-0.

Discussion on Request from the Agricultural Commission to allow Alcohol at the Annual Spencer Fair

The Board then heard from the Spencer Agricultural Association in regard to their request to allow alcohol at the Spencer Fair. Bob Knight appeared on behalf of the Spencer Agricultural Association. Chief Darrin made recommendations on safeguards if the Board decides to permit alcohol at the Fair. Selectman Hicks recommended a hand stamp for patrons to limit the number of drinks a person can have. Chief Darrin recommended a permanent black marker to mark the patrons. Selectman Pepe stated that Rapscaillon Brewery should be able to manage the event in an enclosed area and the Board can evaluate and make changes going forward, if necessary.

Motion by Selectman Grigg, seconded by Selectman Pepe to approve the request of the Spencer Agricultural Association to allow alcohol at the Spencer Fair contingent upon a plan for the serving of alcohol approved by the Spencer Chief of Police passed 5-0.

Review & Possible Action on the Entertainment License Application from April Caruso/Spencer Senior Center for a Cookout from 4 pm to 7 pm and a Live Band from 5 pm to 6 pm

The Spencer Senior Center is requesting an entertainment license for a cookout on June 21, 2022 from 5:00 PM to 6:00 PM.

Selectman Hicks made the motion to approve, seconded by Selectman Pepe, and passed 5 – 0.

FY2021 Audit Report from Tom Scanlon of Scanlon & Associates

The Board then heard from Scanlon and Associates regarding the FY 2021 annual audit. Tom Scanlon and Jeff Gendron appeared on behalf of Scanlon and Associates.

Mr. Scanlon stated that the Board had three documents. They are the Financial Statements, the Single Audit, and the Management Letter. The Town did receive a clean audit opinion. Mr. Scanlon first reviewed the Financial Statements with the Board. The auditors stated they are spending a lot of time on bank statements and receivables. With the collection of \$17 million in property taxes that will be a primary focus. The town currently has an estimated 12 percent in reserves, where the recommended benchmark is 10 percent. Segregation of duties of accounting and collection is very important in making sure things are done properly.

The other report is the Single Audit, which is require if the Town has over \$750,000 in Federal Awards. With ARPA this will be applicable for the next three years. The auditors tested several grants and had no findings.

Finally, Mr. Scanlon reviewed the Management Letter with the Board. Unfortunately, the Town did have a significant deficiency in the Audit. The deficiency was due to the controls over financial reporting. There were numerous accounting errors which required corrections after the end of the fiscal year and a restatement of free cash and certain capital projects, were all part of this deficiency.

Selectman Hicks if these items had been called out before. Mr. Scanlon stated that several of the items had been identified in prior audits. Selectman Hicks stated that he expects the staff to correct these after they have been made aware of them. The Board discussed the items and how they would be corrected over the next fiscal year(s).

Mr. Scanlon then brought up one of the vendor contracts in the road projects account. They found some issues in that the vendor had an original contract for \$929,724. However, through change orders and other payments, total compensation was \$1,877,848. The total adjusted contract amount was 102% above the original contract amount. MGL Chapter 30B states that a town cannot amend a contract in excess of 25% of the contract price. There also seems to be an overpayment on one of the invoices. Mr. Bridges stated that the Town did overpay on that invoice, and it has been recalculated by staff and a refund was received for overpayment.

Mr. Scanlon also stated that there is a significant number of solar credits on the utility which the Town needs to address.

Finally, the Town needs to monitor the various COVID grants. Currently the CARES Act account has a deficit of \$164,400. There was a lot of confusion over what the CARES Act and FEMA were reimbursing, and the Town needs to keep an eye on that. Mr. Scanlon also recommended that the Town take the \$10 million exemption on the use of the American Rescue Plan Act Funds.

Review & Possible Action on Amendment to the Permit and Inspection Fees for the Wastewater Treatment Plant Project

Sewer Commissioner Frank White, Superintendent James LaPlante, Kevin Wilson from Wright-Pierce Engineering, Ian Catlow and Ryan Siegel from Tighe and Bond, appeared before the Board on the issue.

The Administrator stated that at the previous Board of Selectmen's meeting, the Board tasked staff to work on a recommendation on the issue. The recommendation is that the permit fees for the project be waived, but the project include an inspection allowance of \$60,000 to cover the actual cost of inspection time for the project. Chairman Woodbury did not feel that the \$60,000 was sufficient for the project and recommended \$75,000.

Selectman Hicks made a motion to have a \$66,000 allowance (based upon the project's 10.0% contingency) and revisit after the first year of the project. There was not a second to the motion.

Selectman Pepe asked the Administrator if this is a “one time” item or if it could be re-evaluated as the project goes forward. The Administrator stated that this number is going to be included in the contractor’s bids for the project which is a one-time opportunity. Design Engineer Ian Catlow reviewed the issue with the Board.

Selectman Hicks made a motion to waive the permit fees and have the project include a \$75,000 inspection allowance with the provision that if it is not all spent, the Town does not bill the project for it. Selectman Pepe seconded the motion. The motion passed, 4-0-1. Vice Chair Howard abstained.

Review and possible action on the request of the Spencer Sewer Commissioners to increase the appropriation / debt authorization for the Wastewater Treatment Plant Project.

Sewer Commission Frank White, Superintendent James LaPlante, and Ian Catlow with Tighe and Bond came before the Board to discuss the bid results of the Wastewater Treatment Plant Improvement Project. The current debt authorization is \$37,920,000. Based upon the subcontractor bids, with the general contractor bids due June 7, it appears the original debt authorization will not be sufficient for the project. The funding schedule through the State Revolving Fund requires that they have a contractor assigned by July. The subcontractor bids came in 31% higher than estimated for a number of reasons, including supply chain issues, tight labor market and pent-up infrastructure work. The Commissioners are requesting a Special Town Meeting to increase the debt authorization for the project. The STM can take place on the same night as the reconvened Annual Town Meeting on June 23rd. The estimate of the new amount would be about \$48,000,000 but it will not be known until the bids are opened on June 7th. In addition, the project will receive a 17.4% grant of ARPA funds which will be the same percentage on the increased project costs.

On a motion by Selectman Grigg, seconded by Selectman Pepe, the Board set a Special Town Meeting for Thursday, June 23, 2022, at 6:55 PM in the Memorial Town Hall, and passed 5 – 0.

It was determined that a Special Board of Selectmen’s meeting will be held on June 7th with the Finance Committee.

Review and possible action on the Common Victualler license application license for the Change of Ownership of Pizza Hut from Amprex Brands Pizza, d/b/a Pizza Hut to Tasty Hit Northeast, LLC, d/b/a Pizza Hut.

Motion to approve the change in ownership change for Pizza Hut, Common Victualler license, by Selectman Hicks, seconded by Selectman Grigg, and with no further discussion the motion passed 5-0.

Old Business

Review and Possible Action on the Reduction of the Town Meeting Quorum for the June 23, 2022 Annual Town Meeting.

Selectman Hicks stated that many residents who have lived here for years know when the Town Meeting is scheduled and Robo calls went out. He does not agree with the Town resident who believes it is a good thing if the Town cannot pay its bills or employees, by not holding a meeting by the end of the fiscal year. He suspects it will be harder to get 100 voters out on June 23rd.

Chairman Woodbury does not agree. The Annual Town Meeting is the most critical meeting the Town has and to reduce the quorum to 75 is something he is not in favor of; by lowering the quorum, we are satisfying those who do not show up. Selectman Grigg asked what the Town would do if we cannot get 100 qualified attendees to Town Meeting. Chairman Woodbury stated that this has not happened before, it was a fluke of a night. Selectman Grigg stated that we are not limiting who can come, just lowering the threshold to the conduct of the Town's business. Selectman Pepe stated he agreed with 90% of what Selectman Grigg was saying and would like this meeting to go on as scheduled. Chairman Woodbury stated that with the amount of money to be voted on between the Special and Annual Town Meetings, it does not make sense to lower the quorum. Selectman Hicks stated that COVID is a factor as well and there is a real possibility that the Town will not have a budget come July 1, besides anyone who wants to attend may do so.

Selectman Hicks made a motion to lower to lower the quorum for the June 23, 2022 Annual Town Meeting from 100 qualified attendees to 75 qualified attendees. Motion seconded by Vice Chairman Howard. Motion carried 3-2, Chairman Woodbury and Selectman Pepe voted no. Selectmen Pepe is uncomfortable with the amount of money to be voted on with less than the normal quorum.

Moderator Shemeth stated that he is in favor of this one-time reduction of the Annual Town Meeting quorum for June 23, 2022.

COVID-19

Health Agent Report

The Health Agent's report is in the packet. There were 30 new cases in the last week and the prior week had 30 cases as well.

ARPA Report

Town Administrator Bridges stated that the Board will have a report later this week regarding the uses of the ARPA Funds. The report will not recommend specific projects but will comment on potential uses and list the requests made to date.

Town Administrator's Report

Administrator Bridges reminded the Board about the upcoming Memorial Day Parade. Also, that there will be a mailer in the July tax bill about the senior property tax abatement program and the survey link for the Housing Survey.

Citizen's Input

Frank White –is requesting improvements to the sound system in the Great Hall during Town Meetings. There was some discussion on the issue.

Jonathan Viner, 34 Donnelly Cross Road – regarding the audit report; to be clear, they reviewed the road drainage product to Aqualine, it was found that the Town overspent the contract by 102% of the original contract amount which is a violation of the Massachusetts procurement law. Bill Kukowski was Director of U&F at the time, and it may be prudent to review all the other projects.

Administrator Bridges stated that at some point, the Town will do the same analysis on the remaining FMPC projects to ensure pay requests are accurate given there was a \$3,900 discrepancy on this drainage project, including the overspending of the contract. In the forthcoming phase of the FMPC program, the pay request documentation should be different to allow for a cross check at the Town level of the requested payment.

Mr. Viner stated that specifically there was a financial difference of \$3,900 but that does not speak to whether the funds were spent appropriately.

Administrator Bridges stated that the work done was in accordance with the product received and the amount spent. The Town should have completed a new scope of work and rebid the items subject to the change-order and that was not done.

Board Members and Staff Comments:

Selectmen Hicks: Thursday evening there is a DPHS Building Committee Meeting where they will vote on a date for a Special Town Meeting and Special Election for the building project. Selectmen Hicks reviewed the dates with the Town Clerk Fritze and ideally, scheduling the Special Town Meeting in early September and the Election in October.

Mary Braney, who is also on the School Building Committee stated there is flexibility in the process, but the State would like communities to adhere to the schedule. The sooner the vote can take place, the sooner work can commence. Spencer and East Brookfield need to hold the Election on the same day and will coordinate the date.

Selectman Pepe stated that he was saddened to hear that St. Joseph's Abbey went out of the brewing business; it had a national spotlight.

With no further business before the Board, on a motion by Selectman Grigg, seconded by Selectman Pepe, and with all present voting in favor, the meeting adjourned at 8:35 PM.

Respectfully Submitted:

Jeffrey K. Bridges
Town Administrator

Referenced documents: National Grid Pole Hearing; Applications for alcohol, entertainment, and common victualler; FY2021 Audit Report