

**SELECT BOARD MEETING MINUTES
VIRTUAL MEETING
MONDAY, FEBRUARY 14, 2022
APPROVED**

SB Members Present: Rebecca H. Pine, Chair; Alison S. Manugian, Vice Chair; Peter S. Cunningham, Clerk; Joshua A. Degen, Member

Members Absent: John F. Reilly

Also Present: Mark W. Haddad, Town Manager, Dawn Dunbar, Executive Assistant, Hannah Moller, Tax Accountant, Takashi Tada, Land Use Director; Police Chief Michael Luth, Fire Chief Steele McCurdy, Nikolas Gualco, Conservation Administrator, Michelle Collette, Anna Eliot

Ms. Pine called the meeting to order at 7:00 PM and reviewed the agenda.

TOWN MANAGER'S REPORT

1. Mr. Haddad said the BOH lifted the mandatory mask mandate in public buildings and revised the requirements of mask wearing to a recommendation, this went into effect on February 11, 2022. Mr. Haddad said that the mask mandate in public buildings for employees has also been revised; employees will not be required to wear a mask when working or meeting with other employees. However, when meeting with a member of the public a mask must be worn. The Town Hall will be ending the appointment only at the end of the month as well as virtual meetings. Mr. Haddad explained that there is a state law in place which allows for meetings to be virtual until April 1st and there is a bill being presented to the Legislature to allow for virtual meetings to be held indefinitely. Mr. Haddad said that the Covid data continues to drop and the Town is currently at a 4.19% positivity rate. Mr. Haddad questioned the Board if they would prefer to decide tonight to open the public buildings and return to in person meetings or wait until the next scheduled meeting to vote. The Board was in favor of keeping the timeline of March 1st however agreed to vote at the February 28th meeting to ensure that the school vacation did not have any impact on positive Covid cases prior to making any final decisions.
2. Mr. Haddad said that he had been collaborating with the Sewer Commission and the developer regarding the Deluxe Property and receiving a MassWorks Grant to make improvements to the Nod Road Pump Station. The Select Board authorized the use of ARPA Funds and in order to be successful the project needs to be permitted and that will not be achieved before the due date in June. Mr. Haddad said that they will have to wait a year before submitting the grant and the article would not be included in the spring Town Meeting. The developer is continuing to receive permits from the State and is committed to financially support the project. Mr. Degen questioned if the developer is fully committed to supporting 50% of the engineer funds. Mr. Haddad explained that he preferred not to receive a commitment until there is a better understanding of the total costs. There is \$520,000 budgeted for the total project and they are in the process of receiving final numbers.
3. The Finance Committee is meeting tomorrow night along with the Select Board to discuss the FY2023 operating budget and the level of borrowing for the Florence Roche Elementary School. Ms. Moller will be presenting with a recommendation on how to move forward with the project. Mr. Haddad said that there will also be a discussion on the reductions that have been made in the budget. Nashoba Tech came in under \$17,000 of the number that was being carried in the budget, and the Town is receiving firm health insurance rates.
4. Mr. Haddad said that the next Select Board meeting is scheduled for February 28, 2022 and there is a good possibility of appointments occurring with the police dispatcher, deputy chief, and the patrolman. Mr. Haddad noted that an executive session is scheduled to further discuss collective bargaining. Mr. Haddad questioned if the Board would prefer to move into executive session pre or post the regularly scheduled meeting. The Board had a brief discussion and ensued moving into executive session after the public hearing. Mr. Haddad informed the Board that he needs to notify Boston Road Liquors of a violation hearing and will have to update them on the location of the meeting which can be conducted any time prior to March 7th.

SELECT BOARD ITEMS FOR CONSIDERATION

Discuss/Develop Comments- Proposed Ch. 40B Proposal – Heritage Landing – Cow Pond Brook Road

Mr. Haddad said that Mr. Delaney submitted a letter regarding an agreement that he had obtained with the previous owner stating if the project was approved that the waterline would continue past the project to the DPW facilities. Ms. Stanley replied that there is a possibility to bind the agreement and would to be addressed when it reaches the ZBA process.

Mr. Cunningham called the Housing Authority meeting to order at 7:17 PM. Ms. Pine called the Affordable Housing Trust meeting to order 7:17 PM.

Ms. Pine briefly discussed the process of a 40B proposal. In the beginning stages MassHousing requests feedback from the Town and the Select Board will collectively hear from all the department heads. If the project is approved then the ZBA gains control over the management of the project and then there is additional opportunity for any residents to express their concerns. The initial proposal contained errors and was corrected on February 2nd.

Mr. Cunningham questioned if the Town has the ability to request for an extension on the timeline to collect comments. Ms. Pine replied that an extension has already been requested. Ms. Manugian noted that the packet was amended.

Ms. Pine discussed the comments that she had received prior to the meeting. Mr. Delaney raised a concern for safety. Mr. Garside had said that all fees would be required to be paid and no waiver would be authorized. Mr. Orcutt also said that fees would not be waived and there is an agreement to extend the waterline to the project site.

Michael Luth, Chief of Police, said that the development is located along the property line of the shooting range, approximately 300 feet away. He was concerned about noise complaints and people accessing the Town property. There is currently a chain link fence around the shooting range and Chief Luth suggested a fence to be installed around the entire property line. Ms. Pine questioned when the range is utilized and suggested that all residents should be notified prior to any use. Chief Luth explained that the police use the range for two seasons and per contract four hours a month to maintain skills and any new employee who requires qualification. He said that the schedule is posted on social media to ensure all residents are made aware. Ms. Pine agreed that the installation of a fence should be required on both sides.

Steele McCurdy, Fire Chief, said he has been involved with the building process and has conversed with the applicant. There is a concern for a longer response time due to the fire station being 12 minutes away. He has requested that sprinkler systems are installed due to the density and the location however it is not required by any state laws. Mr. Cunningham questioned if there are sprinkler system requirements for larger units. Chief McCurdy replied that there needs to be three units or more to be in compliance with the building code. Mr. Garside stated that there are five duplexes and thirty single dwellings being proposed. A representative from the MassHousing told Mr. Garside that a development had been recently approved which was adjacent to a fire range. He explained that the Police Department and the developer would work out the range safety measurements.

Nik Gualco said if the development shifts to the south closer to the wetland buffer zones then there would be comments from the Conservation Commission.

Takashi Tada said that the Planning Board does not have any comments at this time. He did express that he is concerned with the close proximity to the shooting range and the topography of the site. There is a significant drop from the road to the site and an extensive amount grading would be required along with waivers. Mr. Tada explained that the project is proposed closer to the shooting range due to grading and the access to the site being more feasible closer to the DPW facility. The project also requires a conservation amended permit by the Mass Wildlife due to disturbing the endangered species habitat. The area on the far side would be required to remain open space for qualification of the permit. Ms. Manugian questioned when two access points are required. Mr. Tada stated that the ZBA would need to be made aware of the desire for two access points and the developer would be instructed to do so. Chief McCurdy said when it comes to a secondary entrance it is dictated through the engineer. Chief McCurdy questioned where the waterline would be installed. Mr. Haddad said the original agreement was to run the waterline all the way down to the DPW, as of today it would only be to the project.

Michelle Colette from the Board of Health said she spoke with Ira Grossman and he had sent an email to Mr. Haddad and Bob Garside stating that the project must comply with a Title 5 Septic System. The developer is projecting 13,000 gallons of sewage use which will require an onsite wastewater treatment. The BOH is questioning if irrigation well would be installed for landscape purposes and if so it would need to be permitted. Ms. Colette said that the BOH is concerned that the lot may require fill and if so the quality of the fill needs to be tested for permeability. She stated that an Environmental Certification has been submitted to address these issues.

Anna Eliot of the Housing Partnership commented that 40R as a mechanism for affordable housing was mentioned and questioned if the development is bordering Westford. She suggested that the Town consider negotiating the use of the hill across the street with the developer to alleviate parking issues for both the development and the recreational fields.

Mr. Degen questioned who is addressing the endangered species issue and questioned why the Town would want to use the hill across the street for parking. Mr. Gualco said that National Heritage would be overseeing the whole process of the endangered species. Mr. Degen commented on the new compost area being leased out and questioned who would address the issues of the smell impacting the new housing. Ms. Pine said that there is a house adjacent to the lot. Mr. Degen said that the site was mined many years ago and the topography is low due to strip mining and the water table had been intercepted. He questioned how flooding would be controlled with the new construction of roads and homes and the issues would have to be addressed by the engineers.

Phil Francisco of the Affordable Housing Trust questioned if it would be feasible to move the shooting range and if so request the developer to pay for the expenses. Chief Luth believed that the north east corner near the DPW is currently being used for the compost contract and there would be considerable costs to move the range.

Mr. Delaney said that the original proposal was a deeded restriction. The suggested use of the far corner of the DPW would not be adequate for the shooting range, the area becomes very wet and the other location further down has no utilities or infrastructure. Mr. Delaney reiterated that his main concerns were safety and the protection of the Town assets.

Mr. Cunningham noted that the property is continuous to the capped landfill and if the groundwater is tapped the water could become contaminated. He noted that the closure agreement may become in violation with the DEP.

Ms. Colette commented that the common practice of mining was to remove the natural soil and back fill with lesser quality soil. A septic system has to be installed in naturally permeable soil and the design engineer would have to further discuss with Mr. Grossman.

Mr. Tada said that the hill across the street would require the same review from Natural Heritage and a certified vernal pool is in close proximity to the area. Mr. Tada also noted that the engineer representing the development had requested the comments from Mr. Grossman regarding the onsite wastewater treatment and is currently reviewing those comments.

Ms. Pine reiterated the main comments which included: safety concerns around the shooting range, DPW facility, solar panels, and the access of the site in and out. She stated that it is important to include that the Town is in need of affordable housing and that this area was previously permitted. The property is next to existing housing and is in an appropriate location.

Ms. Manugian commented that life safety has an impact on the Town's average need for staff and suggested keeping the density closer to the center of Town.

John Sopka expressed great concern that the soil has been previously disturbed and there may be significant flooding as Mr. Degen mentioned. He wanted to ensure that there are considerable efforts put forward and there is not a repeat of Olive Way.

Justin, a neighbor of the property, said that there is no access to public transportation and that is a desire for affordable housing. He noted that there is a safety concern due to the increasing traffic from the new compost area and the property is in a valley and may be impacted by the smell. Justin said that he and a few neighbors are not in favor of the development and

recommended not rushing into the first opportunity provided. He then questioned when the 30 day extension expires. Ms. Pine replied approximately March 15, 2022.

Nancy Sarlan questioned the process of consolidating the comments and how they are compiled from residents. Ms. Stanley said that she would submit all comments to the MassHousing. Mr. Haddad said that Ms. Stanley is going to compile all the comments and there will be one document signed by the Chair of the Select Board to be submitted. Ms. Pine noted that there will be more opportunities for comments. Ms. Manugian was concerned with the comments from the public and not being relevant to the 40B process and requested that the comments are clearly identified by residents and the Town Departments. Ms. Pine commented that 40B developments are not required to meet all the bylaws of the Town.

Mr. Cunningham adjourned the Housing Authority meeting at 8:06 PM.

Ms. Pine adjourned the Affordable Housing meeting at 8:06 PM.

ON-GOING ISSUES

1. Mr. Haddad questioned if there were any updates on the Manganese Treatment Plant. Mr. Orcutt said that the final bid would be in tomorrow at 2:00 PM and he would update the Town Manager.
2. Mr. Haddad said in regards to the Florence Roche Elementary School Construction Project that he was accompanied by the project manager, architect manager, and cost estimators from Gilbane Construction and presented to the CPC to request an out of cycle application. The CPC voted to accept the application into their process. Mr. Haddad said that the Building Committee will be meeting on February 28, 2022 to review the value engineering report.
3. Ms. Pine said that the next Bystander Training Session is scheduled for February 24, 2022 from 6:30 PM-8:30 PM. The topic of discussion is how to intervene when you are a witness that makes you uncomfortable in the workplace. Ms. Pine commented that approximately 35-39 people attended the first training session.

SELECT BOARD LIAISON REPORTS

Mr. Haddad said that the Board granted permission for the Town Manager to sign the warrants until February 20, 2022. Mr. Haddad requested an extension to be authorized.

Mr. Degen moved that the Board authorize the Chair, Becky Pine, to sign the warrants in conjunction with the Town Manager until March 20, 2022 or until the Board meets again in person sooner. Mr. Cunningham seconded. Roll Call: Manugian-aye; Cunningham-aye; Degen-aye; Pine-abstain

MINUTES

Mr. Cunningham moved to approve the minutes of the regularly scheduled meeting on January 31, 2022. Ms. Manugian seconded the motion. Roll Call: Manugian-aye; Cunningham-aye; Pine- aye; Degen-aye

Ms. Manugian moved to adjourn the meeting at 8:13pm and move into executive session with no intent to return to the open session. Mr. Cunningham seconded the motion. Roll Call: Cunningham-Aye; Manugian- aye; Degen-aye; Pine- aye

Approved: _____
Peter S. Cunningham, Clerk

_____ respectfully submitted:
Kristine Fox, Minute Taker

Date Approved: 3/7/2022