

Town of Newbury, MA

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Board of Selectmen's Meeting Minutes 3-12-13

BOARD OF SELECTMEN'S MEETING

MARCH 12, 2013

Chairman Story opened the meeting at 7 p.m. with the pledge of allegiance to our flag. In attendance were Selectmen Story, Bulgaris, Bear, Mountain, Walker and Town Administrator Tracy Blais.

Kathleen Pearson, Chair of the Planning Board updated the Board on a workshop for residents on the boundary changes held last week. Feedback was generally positive, she noted. The PB has made a few tweaks in the proposed use tables and these should be reviewed by the Selectmen. A joint workshop to review all the proposed zoning changes for town meeting was scheduled for Wednesday, March 20th at 6:30 p.m.

A letter of resignation from the Old Town Water District from Doug Noyes **was accepted** with deep regret and a letter of appreciation will be sent to Mr. Noyes **on a motion by Selectman Bear, seconded by Selectman Walker and voted unanimously.**

Robert Clocher was appointed as "interim burial agent" on a motion by Selectman Bulgaris, seconded by Selectman Mountain and voted unanimously.

The minutes of the February 26th meeting were accepted as presented on a motion by Selectman Bear, seconded by Selectman Bulgaris and voted unanimously.

Sam Joslin presented a permitting overview to Pam Ameen, President of Theater in the Open (representing Ed Speck Artistic Director) for the proposed Circus Smirkus at Manter Field in August. The overview contains items to be addressed for tents and bleachers in order to obtain an occupancy permit for the shows. **It was moved by Selectman Mountain, seconded by Selectman Walker and voted unanimously to approve the permit for Circus Smirkus with occupancy contingent on all concerns being addressed.**

The draft form for Banners on the Green was approved as presented on a motion by Selectman Walker, seconded by Selectman Bear and voted unanimously.

A request to hang a banner on the Green back stop, from Dawn Del Torchio of High Tail Acres, to advertise their "Open Barn" on March 30th was approved on a motion by Selectman Bear, seconded by Selectman Bulgaris and voted unanimously. Banner to be hung 3/16 and removed by 3/31.

A request from John Adamik (19 Greentree Lane) for use of public property for a water stop by the Riverside Rockets (PMC Bike Team) for a fund raiser bike ride on June 15th **was approved on a motion by Selectman Bulgaris, seconded by Selectman Bear and voted unanimously**, subject to approval of the routes from the Police Chief. A 20x20 area will be used at the Yellow School yard for one hour (approx. 10:30 – 11:30) and at the Manter Field parking lot for one hour (approx. 11 am to 12 noon). There will be two groups, a short ride through W. Newbury and a long ride through Boxford. Proceeds from the ride will go to Dana Ferber and the Jimmy Fund.

A letter to the Governor sent this past weekend from Senator Tarr, Representative Mirra and Chairman Story asking for assistance and collaboration with state agencies for reasonable and sustainable solutions to the P.I. disaster was read and filed.

Chairman Story recused himself from the solar special permit public hearing and left the room. Vice Chair Mike Bulgaris opened the hearing at 7:15 p.m. Sitting for the hearing were Selectmen Bulgaris, Bear, Mountain and Walker. Tear sheets, certified abutters list and proof of notice to abutters including the Newbury Planning Board are on file. Applicant seeks relief from Section 97-3.B of the Newbury Zoning Bylaws to install "solar electric equipment and fencing" on property located off Scotland Road (Assessors Map R54-0-1), as the project is not allowed as-of-right. In accordance with section 97-11.c of the Zoning Bylaws relief in the form of a Special Permit may be sought from the Board of Selectmen. The legal notice was read by Bulgaris. Richard Kleiman of Sage Stone LLC, Chris Sparges, P.E. and owners of the property Gene and Donna Pikul were present for the hearing. Kleiman apologized

for the confusion as to the location of the site, having been listed as 0 Scotland Road and noting the site is just west of Colby Farm. An amended plan was submitted as the result of a meeting with the Colbys. The site is a 72 acre hay field which is mowed two to three times each year, he noted. The solar array will be sited on 15 of these 72 acres at the back of the site, behind the tree island. No trees will be cut and haying will continue around the solar panels. There will be approximately 15' between the rows. The grazing of sheep is being considered to keep the hay down on this site. Continued agricultural use of the site is anticipated. This project is estimated to provide five million kWh of electricity per year or 4 mega watts. Economically the Town will collect PILOT per a draft agreement and net credits will be offered to the Town. Other possible financial benefits are on the table. Chris Sparages, P.E. explained the amendments to the site plan. The subject property is a hay field. The solar arrangements will be in a hatch pattern. There is an existing clam shell drive to access the site. The wetlands have been flagged and there are only a few islands of upland on the site due to soils and vegetation. The Little River is a perennial stream with a 200' buffer zone. No action is proposed in the buffer zone. The area has been mapped by the Endangered Species Program (NHESP). The American Bittern (state listed endangered species) has been observed on the site but NHESP has determined this project will not have any adverse effect on this bird and no further review is required.

A Notice of Intent (NOI) was filed with Conservation on February 6th, a site walk was done on the 19th and the project will be heard at the CC meeting scheduled for March 19th. Originally the solar array was sited towards the east side close to the Colby Farm. The new configuration was developed away from Colby's farm. The same drive will be used, no trees will be removed. There will be a few more utility poles along the drive (9 rather than 5) to reach the equipment. The solar panels are supported by aluminum posts in an east/west pattern, tilted toward the south for maximum exposure and will be 3-5 feet on the low side and 6-7 feet on the high side from finished grade.

There will be 15' between rows and it is anticipated that mowing will be twice a year. A 6' chain link fence will be installed for security 6" above grade to allow for wild life to pass. Shrubs will be planted along the south face of the fence as a screen from Scotland Road.

Rick Kleiman addressed a misconception regarding glare from the panels. He advised they absorb the sun and do not reflect light. Selectman Walker noted that while we all have concerns regarding energy and land use, this still must go the Conservation for wetland issues. Kathy Pearson, Chair of the Planning Board commented that her dimensional questions had been answered. She asked how they justified maintaining the agricultural use.

Kleiman noted it is currently an agricultural site as a hay field and will continue as such. Some of the equipment used to gather the hay may have to be different. The additional use of sheep adds to the agricultural use of the fields. Pearson advised that her board was in the process of issuing a solar bylaw and this plan exceeds that bylaw. She was impressed with the plan presented. Selectman Mountain asked why not wind as opposed to solar. Kleiman stated that not every place has enough wind and it is often objectionable to the neighbors due to height restrictions. This is an ideal site for solar. It is flat, open and located near a sub-station. Mountain inquired how they stood with National Grid. Kleiman said they were well into the process with them and so far it is all positive. Selectman Walker asked Doug Packer if going from hay to solar was a potential use change in a wetland area. Packer commented that this will all be reconciled at their meeting next Tuesday. Selectman Bear asked about the pressure washing of the panels. Kleiman noted that no chemicals are used. It is just a water wash once or twice a year. Bear noted that cell towers have taken measures to camouflage their poles. Kleiman advised there will not be much to see due to the vegetation and it is flat. Short plantings can be put in place for screening.

Bear asked about the fence height vs the panels. Kleiman said they were about the same. Selectman Mountain asked about safety, high voltage and emergency response. Kleiman noted they would work with Police and Fire and have an emergency plan in place. The voltage is no higher than that at the schools – 30V/DC and the risk for fire is also no higher. The driveway and gates will all be keyed and there will be a protocol in place. Mountain asked about noise. Kleiman advised the amended plan shows the pad that was near Colby's has been moved to the interior of the site. The transformer has a low frequency hum and the inverters make no sound. Bear asked about the visual impact of the poles and why not put the lines underground. Kleiman noted that there would be nine poles up the drive. Overhead is preferred due to complications with underground cables with heat and water.

Selectman Bulgaris stated this site is an agricultural use now. At the end of the life of the solar array when it is returned to its original state, will it remain agricultural? Kleiman noted that for the life of the project the site will be treated and managed as agricultural. If the Pikuls deem not to keep it in farming that is their choice. The hearing was opened to questions and comments from the audience.

Dale Williams, 12 Scotland Heights who admitted to being a proponent of green energy asked about the impact to the Town. How many 61A properties do we have and will this take over in the future. Planner Taylor advised that state law encourages solar array. Chapter 40A, section 3 states you may not unreasonably prohibit solar – it is allowed by right.

Dave Withe, 45 Scotland Road questioned the materials used in the solar panels as lead and cadmium were used in some installations. Also the generators used hazardous materials. In the event of a fire or breakage, could this become a superfund site? Kleiman advised the panels were solid state sealed components with a wireless monitoring system and visual inspections are routinely carried out. The transformer is on a cement pad and is filled with vegetable oil which is a benign substance. Leaching into the environment is a concern but we feel there is no significant risk to the wetlands. Withe asked the type of materials in the panels assuming the industry is moving

away from heavy metals. Kleiman noted he had no specific information on hand. The panels are silicone based, glass with copper wire. He will send this information to Tracy and include the risks if any.

Mike Olson, 57 Scotland Road commented that his property is elevated so he looks down on the site. He passed out a two page document of his comments. Kleiman thanked Mr. Olson for his comments and answered a few of the questions raised in the document. Selectman Walker asked if solar is subsidized and Kleiman advised that all forms of energy are subsidized.

Barry Charlton Lenair, 75 Scotland Road expressed his concern for his healing center and B&B which looks down on the Colby Farm. He was also concerned about the noise factor.

J.R. Colby, 31 Low Street said he was concerned about the "Common Pasture", are the AC/DC converters audible to animals, contamination and fire. Also, green energy is becoming outdated and who will clean up this site. Kleiman noted this is not a mall or subdivision that cannot be undone. This is temporary equipment, easy to take out and we are obligated to remove it at the end of its life. There is some salvage value and it will not be left to sit on the site.

There are no superfund sited solar fields. These issues do not apply to solar projects. The noise from the transformer is low frequency and is buffered from the neighbors. There is no substantial risk of fire and we will work with emergency responders and have a plan in place. The land will be returned to a hay field when the project is finished.

Selectman Walker asked what the Town gets out of this financially. Kleiman noted there could be net metering savings through a power purchase agreement with the town, credits to the town's bill and property taxes through a PILOT.

David Powell, 148 Orchard Street and member of the Planning Board took Kleiman to task for some of his responses to questions and brusquely contended he did not see a level of expertise from the applicant as plans were issued without required information, seem sloppy, there is a gap in the number of panels and he was not comfortable with the number of entities involved. Kleiman stated he was offended by these comments as information was presented as required. The change in plan was at the request of an abutter and the number of panels was able to be reduced as they will use higher capacity panels. Kleiman also stated they were one of the largest developers of solar in Massachusetts.

Selectman Mountain noted he was not concerned with hazardous waste but questioned de-commissioning costs and the agreement with the Pikuls. Kleiman advised that de-commissioning costs are only for public sites. This is a private agreement, legally binding, and we are required to remove the array at the end of its life.

John Fowler, 49 Scotland Road questioned 1st responder training for our fire departments. Selectman Bulgaris advised that the training is done at the Fire Academy at no cost to the Town. It is provided by the State. Fowler also raised the issue of the character of the town, the abundance of birds and animals, and bird watching in this area.

Diane Morrison, 55 Scotland Road asked if the facility would be lit at night and Kleiman answered no. She also noted that noise from the transformers was a concern.

Linda Jackson, 49 Scotland Road warned the board to proceed cautiously as this is a huge step to take.

Kathryn O'Brien, 103 High Road who is a realtor noted that Newbury homes are purchased for their vistas, the unspoiled agricultural areas, farms, meadows and marshes. A power plant in the middle of a farm is not why people come here. They don't mind bumpy roads and no street lights. If we allow one, will there be others. Farmers may sell out to green energy because they are not making it with farming.

Bill Colby, 50 Scotland Road noted that J.R. had covered most of their concerns but real safe guards are needed for de-commissioning. Sheep will not keep the hay down as they will pick and choose their spots. He noted he was concerned that solar will be out dated before the facility lives its life.

Selectman Walker observed that perhaps Counsel should be asked about the discrepancy in the street address in the legal notice. Kleiman noted that they went through the required process with the Assessors Office providing the abutters list. The map book and page were also listed in the legal notice so it was properly assigned. Blais will check with Counsel to insure the legality. Kathleen Pearson stated there was no deceit involved. The Assessors procedure was followed. Kathryn O'Brien also noted that she has had the same problem with listings as vacant land if often labeled "0"

Dale Williams, 12 Scotland Heights commented that he passes a Police barracks, bus depot and Mass Highway facility on Scotland Road on his way home every day. This solar facility will just be one more. He felt that Sage Stone had done a great job siting the facility and he was for green energy.

Selectman Mountain moved to continue the public hearing to the meeting of March 26th at 7:30 p.m., seconded by Selectman Bear and opened to discussion. Engineer Chris Sparages asked if there was any additional information needed for this continuation. He was asked to provide a list of materials that make up the panels and info on the proposal for shrubs to screen the installation. Selectman Bulgaris advised he wanted this lost farm land returned to agricultural at the end of the solar use. Kleiman stated they shared this goal, the land will stay in agricultural use and the Pikuls concur. **The motion to continue was voted unanimously.**

At 9:15 p.m. Chairman Story returned to the meeting room.

Town Administrator Tracy Blais gave a brief update on the homes lost on Plum Island. An attempt is being made to schedule a meeting with MRBA, Senator Tarr, MEMA, FEMA, DEP and CZM to answer questions for homeowners.

DOR's property tax division is also being asked if there is any tax relief possible. For clarification of the News, Story noted that while DEP agreed that there would be no fines or penalties to homeowners on P.I. for actions taken to save their homes, permission was never given for these actions. Crews from the Essex County Sheriff's Department will help with debris clean up on the beach the end of the month. **On a motion by Selectman Mouantain, seconded by Selectman Bear and voted unanimously, letters of appreciation will be sent to the following:** Newbury Police Department, Newbury DPW, Newbury/Byfield Fire Departments, MA State Police and Army National Guard for all their help during these times of disaster and destruction.

Blais advised that she, Personnel and the Finance Committee were looking at an approved reorganization of the Assessors Department. Mello's first report on the transfer station shows a profit of \$3300.

Blais noted that an invoice had been received from Newburyport Water/Sewer Department for shut offs at 31, 35 and 37 Annapolis Way. Sam Joslin had notified Newburyport of pending problems but had not requested shut offs and the Town has no appropriation to pay such an invoice. In the past this would have been assessed to the property owners. After a brief discussion, the Board was in agreement that this was not the town's responsibility.

Blais advised that to date the snow budget is \$68k in deficit. Woodbridge School is being cleared of files and should be emptied by the end of the month. Blais advised Chapter 350 of the Acts of 2012 enacted by the Legislature authorizes the Town to use certain fund balances for capital expenditures and monies may be expended without further appropriation by the Board of Selectmen. It was suggested that the \$55K remaining in the landfill capping account be used to purchase a new ARGO and a Police cruiser. **It was moved by Selectman Bulgaris, seconded by Selectman Walker to approve the use of this fund for the purchase of an ARGO and Police cruiser. The motion was voted unanimously.**

Warrants were signed for Blais. The scheduled executive session was continued to a future date.

The meeting was adjourned at 10:00 p.m. on a motion by Selectman Bear, seconded by Selectman Bulgaris and voted unanimously.

Respectfully submitted,
Kathleen Sirois, Admin. Asst.