

Town of Newbury, MA

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Board of Selectmen's Meeting Minutes 4-23-13

BOARD OF SELECTMEN'S MEETING
APRIL 23, 2013

The meeting was called to order by Vice Chair Michael Bulgaris at 7 p.m. with the pledge of allegiance to our flag. In attendance were Selectmen Bulgaris, Bear, Mountain, Walker and Town Administrator Tracy Blais.

Martha Taylor and Geordie Vining presented the options requested at the last meeting for the Clipper City Rail Trail Phase II parking on Parker Street to address some of the Selectmen's concerns. Option 1 was the six parallel spaces off Parker Street as presented.

Option 2 was off-street parking north of Parker Street with an access road. This site is closer to the road but still off road. The feeling is this site is too restrictive due to wetland issues, a swale and utility pole. If pushed farther back on the lot it is close to an abutter and while he supports the trail, he does not want parking that close to his residence. Option 3 is off road on the other side of Parker Street on the old rail corridor with a pedestrian crosswalk. This option is more remote and also close to Kozazcki's farm.

Mr. Kozazcki has a problem with this location. Given the width of the trail corridor, this option would also fully occupy the rail corridor with some potential ramifications for a possible future trail connection to the commuter rail station. Option 4 is "no parking". This could lead to unmanaged parking along the edge of the road or on private property. Taylor noted that she and Chris Wilkinson had come up with a possible Option 5 on a town owned piece of property adjacent to Shepard's parking. The wetlands have been delineated but there are some matters to sort out before this is considered. Confirmation of town ownership is needed and will the Board consider parking opposite the trail with the need for a crosswalk? Walker commented that he understood the need for parking but thought parallel parking makes loading and unloading bikes, children and such a potential hazard. He asked if there was parking available on the Newburyport side of the trail. Vining said it was possible but again it encroaches on wetlands and abutters. The Oak Hill Cemetery side is a possible source but has wetland constraints. The further we move in, the more problems we have with National Grid. They don't want vehicles near their poles and lines. In the terms of a 20' access road and parking stalls we need a width of 40-42' and that is not available. Walker suggested they look further into the town owned land and get Chief Reilly involved for his views on the safety aspects of a crosswalk. Vining agreed and noted they would also look at some parking on the cemetery side if possible. Mountain asked if parallel parking is the best scenario, could there be an off loading area for bikes and children? Vining advised that there are many scenarios that could work and 'no parking' may be the only way to go in the beginning. Vining said they would go back to the drawing board and come back with their findings.

Selectman Mountain reported on the Media Committee. He noted "we went live with the last Selectmen's meeting". We are looking for volunteers to help with videotaping and creating content for programming. The meetings are shown on Channel 9 and a schedule will soon be posted on the town website.

A request for use of the Upper Green as a rest stop for the North Shore Cyclists Blazing Saddles Century Ride on August 17th from 8 a.m. to 2 p.m. was **approved on a motion by Mountain, seconded by Walker and voted unanimously.**

The minutes of the April 9th meeting were approved as presented on a motion by Bear, seconded by Walker and voted unanimously.

At 7:30 p.m. Vice Chair Bulgaris continued the deliberation on the special permit application for a solar installation on the Pikul property off Scotland Road. In attendance were Selectmen Bulgaris, Bear, Mountain and Walker. Bulgaris advised that Town Counsel had provided the Board with applicable criteria for the approval of the special permit application which they would follow.

There will be no participation from the audience allowed. The first item (a) is that the proposed use, building or structure is for the best interest of the Town. Mountain commented that it is the right project in the wrong place. The Common Pasture and this parcel in particular have a historic nature and the CP is the gateway to our community. The special permit process requires a vote on all five questions. Bulgaris asked Walker if his questions had been answered to his satisfaction. Walker stated, probably not, but that information may not be part of this special permit decision and will come in the future. Mountain noted to articulate where we stand, this process goes back to our A/R bylaw because our new solar bylaw is not in place. We can't make a statement of speculation and view is not part of it. Bear agreed with Mountain that it is the perfect project in the wrong spot. Bulgaris asked for a motion.

Mountain moved that the proposed use, building or structure is not in the best interests of the Town, seconded by Walker and open to discussion. Mountain addressed the positives and negatives. On the positive side are tax revenues but the life of the project and depreciation and inflation must be taken into account. A tax agreement is probably the best for the town. On the other

side is the value of the Common Pasture and its history. The introduction to our Master Plan says we must protect this unique area.

Tax benefits do not supersede the value of the Common Pasture. Walker noted we should look at what David said and take this apart. At stake are the Pikul's property rights. The Common Pasture is beautiful but does seventeen acres destroy the view? Will birds still fly and animals run or is it just the view we are talking about. People do have rights with their property. Bulgaris commented as a Selectman he looked at taxes and solar/clean energy which are in the best interest of the Town. The many blackouts/brownouts of the past are due to overloading the grid which is not up to snuff and we need an alternative energy source.

He made note of a visit to Northfield, MA where there is a big sign as you enter the town stating that this is a 'right to farm community'. Across the road from the sign is the biggest solar array I've ever seen and in talking with the farmers they see only positive benefits and no ill effects. I don't want to deprive these property owners of a temporary use over a twenty year period and I think it is needed. Driving down Scotland Road the array will be difficult to see unless you are high up across the road. I don't want to deny the property owners a chance to use their property and the town will benefit with taxes and possibly an alternative power source. I am in favor of this project. Bear asked to revisit the motion. A vote in the positive will deny the project?

Mountain answered yes. Bear noted there was a motion on the floor and a second. I still think this is a right project in the wrong spot. TA Blais suggested it would be clearer if the board went back to the original form for a vote as it would be less confusing.

Mountain withdrew his original motion and moved that the proposed use, building or structure is for the best interest of the town, seconded by Walker. A brief discussion ensued. Walker stated he was still at a loss for more information on the fiscal parts of this project. It was noted that Counsel advised there were three options – deny, approve or deny without prejudice because you do not have enough information for a vote and ask them to go back to the drawing board. Attorney Klavens representing Sage Stone asked to speak to answer the board's questions and was denied. Bulgaris asked for a vote on the motion as it stands. **The vote was three to one with Mountain voting no.** Attorney Klavens voiced a strong objection and warned the Selectmen that the reasons cited for denial may open the way for an appeal. He contended the vote should address health, safety and/or welfare of the town.

Item (b) that the proposed use, building or structure is not injurious and obnoxious to the neighboring properties **was moved by Walker, seconded by Mountain** and opened to discussion. Walker noted they needed concrete objections not just supposition.

Mountain commented that if the project decreased property values it could be injurious but we cannot find any evidence of that.

Selectman Bear said he felt any impact on the Common Pasture could be injurious to the abutting properties. **The vote on this motion was three to one with Bear voting no.**

Item (c) that the proposed use, building or structure will satisfy a community need or convenience not otherwise being served was **moved by Walker, seconded by Bulgaris** and opened to discussion. Mountain agreed that we are in need of more power sources.

Walker noted that the town also needs the revenue and this is a community need not being served. Bear stated this project will add to the power grid and to our tax base. Bulgaris noted that this is the beginning for solar. Most of our power comes from Niagara Falls and with terrorism on the horizon the whole east coast could be knocked out. We will see smaller stations feeding our grids in the future. **The vote on the motion was four to zero in the affirmative.**

Item (d) that the proposed use, building or structure will not affect abutting and nearby properties by increasing traffic and on-street parking **was moved by Bear, seconded by Mountain and voted four to zero in the affirmative.**

Item (e) that nothing connected with the use, buildings or structure, such as machinery, vehicles, material, supplies, equipment and waste materials shall be stored between the street line and the front line of the structure or building, nor be visible from the street **was moved by Mountain, seconded by Walker** and opened to discussion. Walker noted that the plan as presented meets this criteria.

Mountain stated that there was nothing on the plan to suggest that criteria would not be met. **The vote on this motion was four to zero in the affirmative. Bulgaris advised that the application was denied.** Mountain noted that the next step was a written decision to explain reasons for the denial. After filing of the decision a twenty day appeal period would be opened. Bear asked for and was granted a ten minute recess at 8:10 p.m.

At 8:17 p.m. the Selectmen's meeting resumed. Chairman Story was present for the remainder of the meeting.

TA Blais reported she had executed the fee proposal for Counsel's services and only needed Attorney Meads signature. To support this decision, **Mountain moved to approve the proposed fee schedule, seconded by Walker and voted unanimously.**

A summary of bids for town-owned properties offered for sale on April 17, 2013 was presented for approval of the Board.

- Map U03 Lot 87 – 9 12th Street – winning bidder Paul Novak @ \$11,250
- Map U03 Lot 118 – 11 16th Street – winning bidder Wallace and Patricia Ramsden @ \$28K
- Map U03 Lot 53 – 32 14th Street – winning bidder George and Cynthia White @ \$31,500
- Map U03 Lot 23 – Hutchins Road – winning bidder Alexander Tykulsky @ \$5K
- Map U11 Lot 66 – Yellow School, 11 Lunt Street – winning bidder M/M Christopher Horan @ \$125K. Mountain asked if they should wait for a committee recommendation. It was decided to wait for the evaluation team's recommendation and not vote on

approval of this sale at this meeting.

- Map U36 Lot 9 – 87 Middle Road – winning bidder Valerie McCleary @ \$21,099

It was moved by Bear, seconded by Bulgaris and voted unanimously to approve the above sales with the exception of the Yellow School property. The Board thanked the committee and everyone who worked on this project.

Blais noted she had notification from Linda Allen of the Byfield Days Committee that their events would be held June 7 through June 9th and all were invited to attend.

The town now offers on line billing. Residents can go paperless by enrolling on line and information on this will be in the Daily News.

Blais also commended Angel Wills, our Town Accountant for successfully passing the Mass Municipal Auditors and Accountants Association Certification Program. Ms. Wills is now a Certified Massachusetts Municipal Accountant.

Three one-day liquor licenses were approved for Protection Fire Co. #2 for functions on May 12th from 2-6 p.m.; May 18th from 6-10 p.m. and May 25th from 4-8 p.m. on a **motion by Bulgaris, seconded by Bear and voted unanimously.**

A new Class II license for James Richards d/b/a All American Automotive @ 61 Main Street, Byfield was **approved on a motion by Bulgaris, seconded by Bear and voted unanimously.** Mr. Richards advised that his operating hours would be 8-5 Monday through Friday and Saturdays half a day.

The following persons recommended by Town Clerk Leslie Haley were appointed as election workers for the period 4/24/13 through 12/31/14: Dorothy Aham, Nancy Burke, Donna Callahan, Barbara Cohen, Jim Cunningham, Paul Daubitz, Joyce Davis, Elaine Demers, Priscilla Edmonds, Alba Gouldthorpe, Anne Hatheway, Joanne Johnson, Wendy Kaminske, Marlene Koslow, June Maguire, Michael Maguire, Alix McArdle, Kathy Muse, Susan Noyes, Doug Packer, Paula Pearson, Marcia Pike, Ann Reardon, Peg Reardon, Paula Rock, Alice Rogers, Kathy Sirois, Deborah Savage, Nancy Thurlow, Martha Webb and Rita West. Also appointed for the April 30th election were five students from Triton – Carter Shelter, Justin Kelley, Harley Wood, Matt Haley and Kayla Cox. These appointments were approved on a **motion by Bulgaris, seconded by Bear and voted unanimously.**

A letter from Sam Joslin regarding outdoor tables at two P.I. restaurants was read by Chairman Story. Joslin asked for the Board's consideration to allow the serving of alcohol at these outdoor tables during daytime hours on a trial basis. After a brief discussion it was **moved by Bulgaris, seconded by Mountain and voted unanimously to allow the tables but no alcoholic beverages may be served.** The Board agreed that the restaurants could come back to them with a more complete plan and they would reconsider the option of alcoholic beverage service.

Warrants were signed for TA Blais.

Under communications, Story noted he had a late request for a banner on the Green from the Byfield Days committee but there was time for them to be heard at the next meeting. He also advised that one of the Clam Commissioners had asked to appear before the board with a complaint and would probably be at the next meeting.

The meeting was adjourned at 8:35 p.m. on a motion by Mountain, seconded by Walker and voted unanimously.

Respectfully submitted,

Kathleen Sirois, Admin. Asst.