APPROVED

Town of Newbury

Select Board

Minutes

DATE: October 14, 2020

PRESENT: **Board of Selectmen:** Acting Chair Selectwoman Alicia Greco; Selectman Michael Doyle; Selectman Geof Walker; and Selectwoman Gerry Heavey

J.R. Colby, Chair - recused

Staff Present: Julie O'Brien; Martha Taylor

Planning Board Members: Peter Paicos, Chair; Lawrence Murphy; Leslie Matthews; Woody Knight; G. Morse

Town Counsel Present: Brian Winner, Mead, Talerman, & Costa, LLC

P.Paicos noted this was a joint meeting involving the Planning Board and Select Board.

P. Paicos asked for a motion to open from Planning Board

Motion: L. Mathews moved to open L. Murphy, seconded

Roll Call Vote:

L. Murphy – Yes
L. Matthews – Yes
W. Knight – Yes
P. Paicos - Yes

A.Greco asked for a motion to open from Select Board

Motion: G. Walker moved to open seconded, M. Doyle

A.Greco – Yes
G. Heavey – Yes
G. Walker – Yes
M. Doyle - Yes

P. Paicos conducted roll call to confirm Planning Board members present.

L. Murphy – Yes
L. Matthews – Yes
W. Knight – Yes
G. Morse - Yes

P. Paicos conducted roll call to confirm Select Board members present.

A.Greco – Yes
G. Heavey – Yes
G. Walker – Yes
M. Doyle - Yes

P. Paicos conducted roll call to confirm Town Counsel present

B. Winner – Yes

P. Paicos conducted roll call to confirm Town Staff present

M. Taylor – Yes
E. Noble – Yes
J. O'Brien - Yes
Chief Lucey - Yes

P. Paicos conducted roll call to confirm anticipated speakers present.

E. Sorensen – Yes
M. Laham, Morin Cameron Group – Yes
Attorney Rosen – Yes

P. Paicos. Good evening. This October 14, 2020 Open Meeting of the Newbury Planning Board is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due 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 been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order supersedes the requirement of the Open Meeting Law to have all meetings in a publicly accessible *physical* location. Further, all members of public bodies are allowed and encouraged to participate remotely.

The Order, which you can find posted with agenda materials for this meeting allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

For this meeting, the Newbury Planning Board is convening by video conference via Zoom as posted on the Planning Board's Agenda, which can be found on the Planning Board's section of the Town's Website

and which identifies how the public may join. You may join us by going to http://zoom.us and enter **Meeting ID 832 7141 3056** or by **calling +1 929 205 6099 US (New York)** and entering the meeting ID number when prompted.

Please note the public hearing scheduled for tonight's meeting, regarding the Newbury Golf Center, will be held jointly with the Select Board.

Please note that this meeting is being recorded and that attendees are participating by video and/or telephone conference.

Meeting materials were provided to the Board members prior to the meeting for review. Please note as of 12:20 p.m. no new materials have been sent.

Applicants or their representatives may be called upon to speak and, if needed, share information to the screen; please state the intention after you have been called.

Before we turn to the first item on the agenda, permit me to cover some ground rules for effective and clear conduct of our business.

I, as Chair, will introduce each speaker on the agenda. After speakers conclude their remarks, I will go down the list of Members, inviting each by name to provide any comment, questions, or motions. Please hold until your name is called. Further,

Please remember to mute your phone (*6 to toggle mute/unmute) or computer (mute button) when you are not speaking;

Please use earbuds/ear phones with tablets/cell phones

Please remember to speak clearly and in a way that helps generate accurate minutes.

Please be aware that video participants can see you, and that you should take care not to "screen share" your computer. Anything that you broadcast may be captured by the recording.

For any response, please wait until the Chair yields the floor to you, and state your name before speaking. Board members should be called upon in first name alphabetical order to ease the process.

If Board members wish to engage in discussion, please go through the Chair, taking care to identify yourself when you wish to speak.

After Board members have spoken, I will afford the public comment as follows:

I will seek questions through the **Raise Hand** function; (1) For video conference participants, this function can be accessed by clicking on the Participants option listed in the menu below the photo gallery (hover your curser in this area if you don't see it), window will open and display on the right. On the bottom of this participant area, you will see the list of phone/video participants and on the bottom

you will see the ability to click on a button to **Raise Hand.** Please ensure your name is displayed (you may rename by using the More function next to your name) list your name, address, then your question;

Telephone participants can use their phones key pad while in a Zoom meeting to **Raise Hand** by hitting *9

I will then seek questions from the public that have hit the **Raise Hand** button, in the order in which they are listed (system lists in order by whom first hit the Raise Hand function). The participant will be called on to identify their name and address, and then their question. I will afford the applicant/participant or his or her representative the opportunity to reply. Your hand will be lowered when you have been given the 'floor' for your questions. The Board will continue down the list of those in the Raise Hand column and again afford the participant/applicant/rep an opportunity to speak. Should there be a physical or electronic submittal of questions or concerns, they will be read for the record and again, the participant/applicant/rep will be afforded the opportunity to speak if the issues raised have not yet been addressed.

Finally, ***EACH VOTE TAKEN IN THIS MEETING WILL BE CONDUCTED BY ROLL CALL VOTE.***

P. Paicos addresses the Planning Board. In considering an application for a Modification to a previously Approved Site Plan, Newbury Golf Center, 131, 133, & 151 Scotland Road, Map R43, Lots 2, 11 and 4B; Applicant: Erik Sorensen, President, Newbury Golf Center, Inc. Applicant requests approval of proposed Plan to restore areas of disturbance outside the approved limit of scope of the project. Note approval requires super majority of 3 out of 5 votes. Original site plan approval was granted November 15, 2017.

A.Greco addresses the Select Board. The Select Board is considering an application submitted by Eric Sorensen , president Newbury Golf Center Inc., Modification to a previously Approved Site Plan, 131, 133, & 151 Scotland Road, Map R43, Lots 2, 11 and 4B. Applicant requests approval of proposed Plan to restore areas of disturbance outside the approved limit of scope of the project. Note approval requires a super majority, 4 out of 5 for the Select Board. As J.R. Colby has recused himself, approval will require all four Select Board members to vote in favor. Original site plan approval was granted November 15, 2017.

A.Greco will act as chair for this meeting.

P. Paicos, stated currently outstanding issues to date were; no final as built plan yet received and do not have resolution to final remaining mitigation of screening. Agreed upon last meeting by both counsels they would jointly agree on a lighting consultant. Has learned that Lighting consultants are limited which are free standing. As was agreed upon by both parties, looking for individual who was neutral and had no exposure to this project. Traffic concerns have also been raised. Asked Martha to speak to the topic

M. Taylor, responded a couple items have been raised, first time by Clair Dix at last meeting and recently received email from John Ferrara to which Chief Lucey responded with recommendations

P. Paicos turned over to applicant Eric Sorensen

E. Sorensen, provided an update. Stated Golf Center has been open for 47 days, over 750,000 balls hit ,over 100 juniors gone through our program, over 50 ladies, multiple high school and college teams have practiced here , it has been busy. 12 out 16 employees live in Byfield or Newbury. Stated he has reached out to Town several times to get updates regarding lighting. Commented would like to get situation resolved as soon as possible. Stated feels going in the right direction.

M. Laham, spoke regarding As Built plans. Stated he thought we had satisfied the storm water compliance with the partial as built that was done. Need assistance as is what is needed for the As Built. If someone could provide to him with what the requirement is for the As Built, would be great. Mentioned surveyors scheduled to do work out there.

M. Taylor, stated Bill Holt, Conservation Agent, indicated still waiting for As Built. Partial provides some information but need information for entire site.

M. Rosen, stated As Built normally provided after permitted. Talking about signage and lighting tonight a traditional As Built would not traditionally be delivered until those items are completed. Asked for clarification as to what regulations we are complying with in regards to As Built, as we are not 100% there yet.

P. Paicos, need to know Storm water plan is buttoned up.

A.Greco, stated, she understood, that most projects As Built plans are submitted before the project is built. Then the project is built and the project is built to the specifications of the plan. This is a unique project, as was approved, the applicant hired contract labor that damaged the process, the special permit had to be reopened for mitigation, and no plans were submitted again to the Town that accurately depict what is accurately built there now. Legally our Bylaw states we cannot issue any certificate of occupancy until As Built plans are submitted.

B.Winner, in concept that is correct. Normal permitting case, is design, then permit, then build, then As Built plan, which is reviewed by the engineering team and is certified, then building department signs off and allows occupancy. This project is backwards, no approved plan yet, no special permit site plan review granted yet construction already occurred. The Town is looking for what exactly are we approving, what has been constructed. Is it in conformity before the Boards and Departments sign off. This has not been a traditional permitting process. We have something that is in operation but don't have a plan that necessarily shows it.

M. Rosen, replied what you are saying is you want an updated design plan that includes changes that were made. You have design that was pre-impact, need post impact drawings. As Built refers to something specific in the permit jargon. What you are saying, forget terminology, we want a plan that shows us the revised/updated design.

B.Winner, need to capture what is on the ground, we need to see a plan of what has been built.

M. Laham, that is the plan that has been submitted, at the last meeting and shows the modified design. What I was tasked with was preparing a modified site plan which is what I did and provided to the Town.

P. Paicos, requested that Mike reach out to Conservation to clarify what it is they need and what their concerns are.

A. Amato, resident, spoke up and asked if she could opine. Stating she has a young daughter and hard for her to wait.

P. Paicos, explained the process again.

A. Greco, explained we are operating under parliamentary procedure, that is how the law works.

G.Walker, asked for clarity from Brian or the Planning Board. Stated remembers a lot of plans as they went along. Mentioned at one time was on the Planning Board. People should understand there are plans.

P. Paicos, asked to move on to the lighting topic. Asked Brian for historical data.

B.Winner, mentioned the Lighting consultant topic. Discussed he was tasked with trying to procure services of qualified lighting consultant. Someone who is not involved in project to look at first what has been constructed and second any potential mitigation issues. Brian interviewed and discussed the project with a potential candidate. Person we thought would be on board did not work out. In parallel, Ms. Taylor was cultivating other options. What we have come to learn often consultant services are provided by manufacturer. There are very few persons who are truly independent. We are now moving on to another individual.

M.Taylor, my experience is similar to Attorney Winner's. I contacted someone very knowledgeable with the field but works for a company. She did refer me to someone else. I conducted a Zoom interview. He has sent his qualifications and a list of things he would like to have to put together his scope of work. I will provide him with a scope and get a contract letter and confirmation from him.

P. Paicos, inquired of Attorney Rosen if he had an opportunity to find any independent candidates.

M. Rosen, stated Attorney Winner indicated he had a few candidates and asked Attorney Rosen to sit tight. Attorney Winner sent the information to Attorney Rosen on the first candidate to be vetted. Until recently had not realized there was a problem pulling a contract together with this individual. We touched base today and Attorney Winner informed me Ms. Taylor had identified someone else and shared that information. Attorney Rosen confirmed he did check this person out. Other than that, has been deferring to Attorney Winner.

P. Paicos, encouraged Attorney Rosen if he had any names to bring them forward to the group.

M. Rosen, suggested if Attorney Winner needs information to get in touch with Scott or Mike.

P. Paicos ,asked to confirm if Musco was involved in this process.

M. Rosen, we had agreed a few weeks ago that we would go with an independent. Musco has made themselves available to come to do light readings and any other work on the site and available to provide data and plans. Musco would be available to do this work right now. But the decision was made to have someone do the work that has not yet been involved with the project.

P. Paicos, agreed that was his understanding regarding an independent.

E.Sorensen, stated Musco has a machine that would read the lumines.

P.Paicos, once consultant on board we will determine what is needed.

M.Taylor, the person I have in the works does have that capability. Attorney Rosen did you find any conflicts?

M. Rosen, replied not as of yet.

P. Paicos opens up to Planning Board for any questions.

L. Murphy, No

G. Morse, No

L. Mathews, No

W. Knight, No

A. Greco opens up to Board for any question

G. Walker, No

G. Heavey, No

M. Doyle, asked if the lumines are done at every project?

P. Paicos, replied, yes, the Planning Board does look at that. They look at spill over to adjacent areas.

P. Paicos stated would like to address the traffic concerns. Asked Chief Lucey to speak.

Chief Lucey, congratulated Mr. Sorensen on his success so far. Referred to his letter of recommendations that was provided to both Boards.

Chief stated the concerns he has relates to traffic. The location of main access is on a bend on Scotland Road. Line of sight an issue. 45 mile an hour zone currently. There have been some reported close calls. Chief proposed doing a traffic study and seeing what the 85th percentile is. Reducing the speed to 40

may be appropriate. There is a lot of activity in that area other than the Golf Center. Also, mentioned there is a lot of signage. When too much just becomes white noise. People tend to get desensitized when there is an abundance of signage. Feels most effect recourse would be reduction of speed limit and hopes the study will show that. Once adjustment happens persons GPS will reflect the new, lower speed limit.

P. Paicos, thanked the Chief and mentioned involving the MVPC.

M. Taylor, yes agreed to start with the traffic group at MVPC. Mentioned may already have some data on this particular stretch on Scotland Road.

P. Paicos opened up to both Boards for discussion.

L. Murphy, inquired of Chief if Town can set speed limits on Scotland Road.

Chief Lucey, not necessarily, need to provide traffic study and then must be approved by the state.

L. Murphy, asked the Chief to explain the 85th percentile.

Chief Lucey, 85th percentile is a study done which is looking for what is 85% of the traffic doing. It is how a reasonable speed limit is decided. Then there is a geographical adjustment, is his understanding.

G. Morse, asked would it make sense to have more lighting at edge of the road to give persons a visual warning.

L. Mathews, stated increase on lighting would only be on dark hours would not benefit day light hours. I think west abutter, has been very open to taking down of the end of the driveway trees to allow a better visual coming from the west to the east. Do not think a blinking light will help because only would help if once you come around the corner you would see it.

W. Knight, no questions at this time.

A. Greco opened up to the Select Board.

G. Walker, what John said is relevant. Lowering the speed makes sense, gives people more time to react.

G. Heavey, at one point the drive way was reconfigured due to traffic issues. Seems late in day for traffic study and who pays for the traffic study?

P. Paicos, driveway was moved due to abutters property line. And there was a degree of concern regarding lighting and noise, etc. It was agreed upon that the driveway would be moved to the other end of the site. We have a situation and need to address it. Need to work through collaboratively. Mentioned what we do not know is what the increase of traffic will be due to this site. Payment would be a discussion.

M. Doyle, when driveway moved, who chose where it would go?

P. Paicos, moved by the applicant, Boards expressed their concerns. The engineering firm, Meridian, did the plans and recalled the driveway put in before the Boards said go ahead.

M. Doyle, we could put some type of electronic sign around that corner to slow them down. Lastly referred to letters that are dated September 28th and not receiving them until yesterday.

A. Greco, if we do decide to go with signage. Town owns property 10 feet in on each side of the road. A sign would not be on anyone's property.

P. Paicos, opened to public comment.

Janine Cunningham, stated I am directly next door. We have removed some of the trees as Leslie eluded to. Chief Lucey, stated you know this, people do not travel 45 miles an hour. Expressed does not feel reducing the speed limit will do anything. Mentioned living here for 48 years. I spoke about all these points and no one heard my concerns. I am shocked that it is now a problem. I do not want lights down there. Will come right up my hill and cause issues. Stated current lighting does not bother her yard. Mentioned having major concerns about the driveway and had stated that right from the beginning.

Deb Carbone, I do concur with Janine. We did request a traffic study at one point and it never happened. Agrees speed limit is an issue and there have been attempts to get it lowered. I have had several discussion with Eric regarding trees on the property line. I would like to find out regarding the trees. It is planting season and I want to know what is going on. Eric was supposed to get back to me and nothing has happened.

S. Bowling, interrupted stating her hand was raised and she had something to say. Stated she is Eric's wife.

A. Greco spoke to parliamentary procedure.

E. Sorensen, I would be happy to meet with Town officials and Deb Carbone to discuss. We have had problems with COVID and supply line in regards to trees.

S. Bowling interrupted again, using profanity.

E. Sorensen, pile of loam is in that position. Waiting for tree guy.

S. Bowling, interrupted again.

Deb Carbone, thanked Eric and asked to keep the lines of communication open.

E. Sorensen, started to speak.

S. Bowling, interrupted again.

Attorney Rosen, requested of Ms. Bowling to please refrain in this forum. You are not helping your husband this is a planning forum.

P. Paicos, asked to mute Sarah as not helpful to conversation.

M. Taylor, confirmed muted and removed Ms. Bowling from the meeting.

E. Sorensen, I think the trees will be here next week. A town official can come and help decide. The loam is there and they are ready to be planted.

D. Carbone, thank you I just want to keep the lines of communication open.

A. Greco, although Deb is an abutter, she cannot speak for the Town.

E. Sorensen, so how should we proceed?

P. Paicos, stated to Eric best route is to go through Martha before any action takes place.

Amy, 2 Knob hill Byfield, stated a great opportunity for the community and understands the concerns. We are trying to keep a tiny town, but it needs to grow.

Dale, 12 Scotland Heights Drive, spoke regarding lighting. There is a safety issue not having the lights on a little extra time for the employees. The bus depot lights are invasive, they are on 24/7. Why lights cannot be on in the parking lot for a short amount of time while the employees leave.

A.Greco, explained the light spills into the neighbor's houses, into their rooms. Work with Eric to fix the lights so there is not trespass light on the neighbor's houses. As far as safety goes that can be adjusted through operating hours.

M. Doyle, stated can keep a few lights on for safety. Takes time to close up a business.

P. Paicos, many issues with this project have been backed into and trying to problem solve. Hopefully we will have lighting consultants to help us address the issues of lighting.

Dale, stated a follow up to Alicia's comment. Why is the bus depot not considered light invasive?

P. Paicos, we are not here to discuss the bus depot we need to work through this project.

J. Carbone, Dale is correct, I have complained about the Depot lights. Mentioned put up room darkeners.

A. Greco, I was not aware of that. I going to ask Town Administrator to look at that. Then stated she would circle around with Janine outside of this public hearing.

Chief Lucey, I wanted to let you know I did hear regarding the speeding concerns you have. What I suggest is if you have opportunity to take notice of days and time that is most egregious let me know my email is on the website.

G. Walker, if we look back at what we have accomplished, talked about As Built, talked about traffic and speeds, and lighting, it has been a productive meeting even though a bit distracting.

L. Mathews, time frame of the project is my biggest question, why were these things not done earlier, like the traffic survey and the As Built drawing. Why two and a half years later and into occupancy level did we not do our due diligence.

P. Paicos, I may ask for Town Counsel to help with explanation. The answer is we are here, a series of events have brought us here and it is unusual

B. Winner, stated at one point fully permitted project. Then things changed, quickly and significantly and the Boards have been in a reactive mode. Have been tackling issues as they arise. My perception how Boards is to approach is to identify most pressing issues and try to resolve as proactively as possible but has been a moving target. Lighting a big issue, abutters mitigation and other site mitigation have been very complicated and consuming issues for an extensive period of time. Location of driveway on two tiers, one sighting. The fact that there is a driveway is not an issue. It's the impact it has on traffic, travel and safety issues. That component had not been thoroughly explored or vetted. We can't close out public hearing and write a decision until Boards can check off all the boxes. That includes the traffic mitigation component. Is an opportune time to revisit if signage, illumination is warranted and if so, to what extent and where and what it would be comprised of? Are there any related traffic issues that effect the road itself, such as speed?

L. Mathews, asked is there some way we can put a timeline on the mitigation for the different things that need to be taken care of? Whether traffic or landscaping to button this up so that the applicant understands what direction he needs to go into.

P. Paicos, the mitigation trees, abutters, etc. has been out there a long time. The lighting is new as lighting plan changed, a problem was presented and we need to create a resolution to it. I would like to have a period for each of these situations to say by this date this will happen but we have not been successful in doing that. Stated he would very much like this project to be done, as hundreds of hours have been spent by Board members, staff, towns people on this situation. Need to get this project across the finish line.

L. Mathews, stated she looks at 6 months to have project all buttoned up.

P. Paicos, asked where do we want to go for next steps. Hope to have lighting consultant in the pipe. We will have the final components Conservation is looking for addressed. We will initiate conversation with MVPC and the Chief to see if there are traffic approaches we should be looking at. Asked Martha if any new conditions or punch list that she could think of.

M. Taylor, agreed what Peter stated covered it for now.

P. Paicos, stated we will be continuing this hearing. Mentioned to Eric he understands this has been a long process and understands the difficulties involved. Stated we want to get there we just need to address these other issues. Asked Attorney Rosen to work with Town Counsel.

M. Doyle, asked if there is any way we can put one light one before the closing. Concerned about people getting hurt.

P. Paicos, replied we need to leave lighting where it is. Stated it is up to the employer regarding the safety of his employees not the Boards.

A. Greco, commented I want to make sure the applicants engineer is clear and understands what the Town is requesting and needs.

P. Paicos, suggests engineer speak with Martha and Conservation to discuss what components are necessary.

M. Rosen, stated I would be happy to interface also. Need to be sure we are answering a question not defining the name of a plan. Want to work with you and find a solution. Would like meeting within the next two or three weeks, particularly to discuss lighting situation solution.

G. Walker, I do agree with Mike Doyle, somehow, we need to find a way to light parking lot to help people leaving after closing.

G. Heavey, agreed regarding the safety of the employees as it relates to parking lot lighting and make accommodations sooner than later.

P. Paicos, commented couldn't tell you how many meetings there have been for this project. Planning Board has 15 other projects we have to negotiate, so our schedule is very full.

A. Greco, we could ask Town Administrator if we could piggy back on the Oct 27th Select Board meeting. Not certain what we have on Agenda though.

P. Paicos, asked what date looks most reasonable?

M. Taylor, replied right now the 18th of November is open or we could add a meeting.

L. Mathews, stated would prefer to piggy back. As the 18th of November you are getting into the holidays.

M. Taylor, commented there are new projects that need to be opened. We have other on-going public hearings that will be fairly lengthy. Too many public hearings in one night will be difficult.

P. Paicos, stated probably cannot not do on a regularly scheduled Planning Board meeting night.

Discussion ensued regarding a date. P. Paicos asked if 12th of November works?

A. Greco, confirmed yes.

M. Doyle, stated that does not work for him. Suggested Oct. 27th.

P.Paicos, stated that would not be enough time in regards to the lighting consultant.

A. Greco, what about Nov. 10th. Piggy back on Select Board meeting.

Polled Planning Board, regarding Nov. 10th

L. Murphy – Yes
L. Matthews – Yes
W. Knight – Yes
G. Morse - yes

Discussion ensued between the two Boards. Decision was made the next continuation meeting to take place November 10th . The Select Board meeting will start at 6:00 p.m. the Public Hearing at 7:15 p.m.

P. Paicos asked to entertain a motion from Planning Board.

Motion: L. Murphy moved to continue the meeting on November 10th,at 7:15 p.m. W. Knight, seconded

Roll Call Vote:

L. Murphy – Yes
L. Matthews – Yes
W. Knight – Yes
G. Morse - yes

A.Greco asked to Entertain a motion from Select Board

Motion: M. Doyle move to continue public hearing on November 10th, at 7:15 p.m. G. Heavey, seconded

Roll Call Vote:

A.Greco – Yes
G. Heavey – Yes
G. Walker – Yes
M. Doyle - Yes

P. Paicos asked to entertain a motion to close Planning Board meeting

Motion: G. Morse moved to adjourn Planning Board meeting seconded, W. Knight

Discussion: None

Roll Call Vote:

L. Murphy – Yes
L. Matthews – Yes
W. Knight – Yes
G. Morse – Yes
P. Paicos - Yes

A.Greco asked for a motion to close Select Board meeting

Motion: M. Doyle move to adjourn seconded, G. Heavey

Roll Call Vote:

A.Greco – Yes
G. Heavey – Yes
G. Walker – Yes
M. Doyle - Yes