

**TOWN OF NEWBURY
SELECT BOARD**

MINUTES

DATE: January 12, 2021

PRESENT: **Select Board:** Chairman J.R. Colby; Vice Chair Alicia Greco; Clerk Geof Walker;
Mike Doyle; Gerry Heavey

Staff:

Tracy Blais, Town Administrator
Julie O'Brien, Executive Administrator
Martha Taylor, Town Planner
John Lucey, Police Chief

Speaker:

Bob Connors, Chair Police Station Construction Committee
Mark Gleckman, Chair Human Resource Board`

Call to Order:

At 6:00 p.m. Chairman J.R. Colby called the meeting to order and confirmed member access by roll call that all members and persons anticipated on the agenda were present and could hear him. He requested as he called the names, to respond in the affirmative as follows:

Select Board:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey - Yes
Geof Walker – Yes

Staff:

Tracy Blais, Town Administrator - Yes
Julie O'Brien, Executive Administrator - Yes
Martha Taylor, Town Planner – Yes
John Lucey, Chief of Police – Yes

Speaker:

Bob Connors – Yes
Mark Gleckman - Yes

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

Discussion: None

Roll Call Vote:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey – Yes
Geof Walker – Yes
JR Colby - Yes

Oral Communications From Citizens

To receive oral communications from members of the public. Members of the public may address the Select Board for up to 3 minutes; longer with the permission of the Chairperson. The Select Board will not engage in discussion on topics raised during public comment but may choose to add the topic to a future agenda. This agenda segment will be limited to 15 minutes unless extended at the discretion of the Chairperson

- James Stewart – 22 Old Point Road, Newbury, referred to a letter dated 12/16/20 from , Lisa Meade, Town Council regarding the Select Board to consider alternative route for PI Emergency Egress. Requested this be on the next Select Board Agenda 1/26/21

Board and Committee Reports

- Report of Chairman Colby:

Signed PR21-14 – Julie O'Brien
Signed PR21-14 – Select Board

- Report of Chairman Connors:

Police Station Project Update

Bob Connors reviewed the presentation he provided

Grants, Gifts & Donations

(Chapter 44: Section 53A Grants and gifts; acceptance and expenditure)

- \$60.00 donation to COA – Michael and Leslie Doyle
- \$15.00 donation to COA – Richard and Cheryl Cox
- \$25.00 donation to COA – Paul and Ann Colby
- \$200.00 donation to COA – David Loring

Motion: A. Greco moved to accept the COA donations, seconded by M. Doyle

Discussion: M. Doyle commented there will be a few more donations coming in

Roll Call Vote:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey - Yes
Geof Walker – Yes
JR Colby - Yes

New Business:

Review, approve, and sign - 2021 Business License Renewals as follows:

- Kimm Wilkinson, dba Adelynrood Conference & Retreat Center, 46 Elm Street, Common Victualer

Motion: M.Doyle moved to accept, seconded by A. Greco

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Durge Machado Moreira, Braza Car Auto Sales, Inc., 86 Newburyport Turnpike, Used Car Dealer's License – Class II

Motion: M. Doyle moved to accept, seconded by A. Greco

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Michael and Shelby Hall, dba American Automotive, LLC, 61 Main Street, Automotive Repair

Motion: M. Doyle moved to accept, seconded by A. Greco

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Vivian Anastasia-Hurton, dba Anastasia's Flowers on Main, 56 Main Street, General/Floral Shop

Motion: M. Doyle moved to accept, seconded by A. Greco

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Ronald Barrett, dba Barrett Transportation, 18 Hutchins Road, General Business/Vehicle Transport

Motion: M. Doyle moved to accept, seconded by A. Greco

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Pamela Doherty, dba The Beach Dog Daycare, 96 Newburyport Turnpike, Animal Care

Motion: M. Doyle moved to accept, seconded by A. Greco

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Fit by John, dba c/o John A. DesOrmeaux, Jr. , 89 Hanover Street – Unit #3, General Business/Personal Training

Motion: M. Doyle moved to accept, seconded by A. Greco

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Leslie D. Matthews – Dragonfly Hill, dba LDM Collectibles, 111 Main Street, Crafts, Gifts, Antiques, 2nd Hand Articles

Motion: M. Doyle moved to accept, seconded by A. Greco

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Kendall Bowie, dba Mad Martha's Island Café, 51 Northern Blvd., Common Victualer, Hours of Operation:
Tuesday – Sunday 7 AM to 2 PM
Thursday – Saturday 5 PM to 10 PM

Motion: M.Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Randall Bandoian, Trustee, dba Olde Newbury Boat Co., 84 Newburyport Turnpike, Auto/Marine

Motion: M. Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- David Williamson, dba Plum Island Enterprises/Williamson Parking Lot, 3 Northern Blvd.(U02-0-195), Parking Lot

Motion: M. Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- David Williamson, dba Plum Island Enterprises/Williamson Parking Lot, 34 Plum Island Blvd.(U02-0-111), Parking Lot

Motion: M.Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes
Gerry Heavey – Yes
Geof Walker – Yes
JR Colby - Yes

- Ron Barrett, dba Plum Island Taxpayers Association, 8 Plum Island Blvd., Common Victualler/Parking Lot

Motion: M.Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey – Yes
Geof Walker – Yes
JR Colby - Yes

- John B. Seamans, dba Sculpture by Beverly Seamans, 2 Newman Road, General Business

Motion: M. Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey – Yes
Geof Walker – Yes
JR Colby - Yes

- Lisa Porter, dba Seacoast Horse & Pet Sitting, 48 Old Rowley Road, General Business/Animal Care/Dog Boarding/Dog Day Care/Pet Sitting

Motion: M. Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey – Yes
Geof Walker – Yes
JR Colby - Yes

- Elizabeth Moulton-Cowie/Martha Moulton, dba Surfland Bait and Tackle LLC, 30 Plum Island Blvd., General Business/Bait Shop

Motion: M. Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Charles Panacopoulos – Triad Traffic Technology, Inc.,dba Triad Driving Academy, 96 Newburyport Turnpike, Driving School

Motion: M.Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Randall Bandoian, (Trustee) Offshore Concepts Conservation Trust d/b/a U.S. #1 Auto/Marine, 84 Newburyport Turnpike, Used Car Dealer's License – Class II

Motion: M. Doyle moved to accept, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

Motion: M. Doyle moved to allow the Chair to sign all Business Licenses as listed, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey – Yes

Geof Walker – Yes

JR Colby - Yes

- Elm Street side walk discussion
 - M. Doyle discussed residents commenting that Elm Street is a dangerous road. There are concerns regarding speeding cars. High Road also mentioned in regards to safety concerns
 - Chief Lucey, spoke to High Road, suggested to send a letter to District Four, Mass DOT.
 - A.Greco asked T. Blais to discuss the cost that sidewalks would entail.
 - T. Blais stated the general rule of thumb is a million a mile. Would have to meet Mass DOT standards, including handicap ramps
 - M. Doyle inquired if there were grants available

- T. Blais responded Town has not applied for any lately. All past attempts were not successful If board wants to entertain the sidewalks, would need to hire an engineer, go through Capital Planning and move forward through that process
- G. Heavey, mentioned Jim Moran's letter initiated the sidewalk discussion and DPW input would be helpful
- JR Colby discussed the trial that was slated to go in between Caldwell Farm and Governor Dummer. That never happened. Trial was supposed to go in as per their permitting and licensing for their project. At the point now where the DPW will be cutting the path which will alleviate the foot traffic for Triton students
- Jim Moran, spoke regarding sidewalks on Elm Street, mentioned safety concerns. Feels there is a need and recommend the process get started and feels can be done in stages. Asked to consider a sidewalk program across town
- A.Greco commented, having a sidewalk plan for town is a good idea. Having a funding source like we do for Roads would be a good idea but would need to pass at Town Meeting, require an override and increase taxes. Once the path is cut will get the kids running off the road. Triton has policy all students are bused. Would want to consult with Triton also

Emergency Management Director Update – Chief Lucey

- As January 7th, Positive cases increase 6.7%
- 44% Increase since December 1st
- First responder vaccination process Janvrin and Rogers coordinated through out next week

Discussion: A.Greco asked if there will be a coordinated vaccination roll outs for phase II.

Chief Lucey, responded that is in the works, however could not speak to dates at this time.

A.Greco inquired if there will be any clinics

Chief Lucey, replied looking at best options/ locations for roll out, not certain of time frame as waiting for State to solidify

Town Administrators Report

Free Cash

- \$3,232,957
- last year we certified \$2,803,520
- we appropriated \$1,205,811, so closed out \$1,597,708
- Revenue side
 - my budgeting was a bit too aggressive and I plan to be more conservative this year since there is much uncertainty right now
 - Although we were about \$900,00 to the good we had a few unanticipated receipts:
 - \$468,000 in foreclosure revenue
 - \$28,000 in rollback taxes
 - \$46,000 in non-recurring miscellaneous revenues – street light rebates, prior year storm reimbursement
- Expenditure side
 - We closed out just over \$1,066,187
 - Few emergencies - \$62,000 in Reserve Fund
 - Insurance expense credits for trainings
 - Personnel changes \$66,000
 - Health Insurance \$50,000
 - Bonding costs, no BANS, straight to market \$155,000
 - Essex Tech Tuition way down \$149,000

- Snow removal \$100,000
- Overall FY 2020 was a great year except for the whole pandemic thing—which we will likely feel more of the impact in FY 2022
- We're awaiting the COA report and as we contemplate the need for a Town Hall and COA these funds will no doubt come in handy

Website Review

- The HR Board and the Managers to complete a thorough review of the website and each individual section with the goal of:
 - Updating
 - Eliminating out of date or unnecessary information
 - Continuously improve the information that we provide

"Remote to Work" Plan

- By all accounts continues to be working very well. There have been no delays in processing requests or transactions
- We are all working hard to try to anticipate communication gaps as the pandemic has interrupted or normal routines

Discussion: G. Heavey Inquired regarding burning season and buying a permit. When will permits be available online. Stated was not available as of today

T. Blais responded Chief Janvrin has available on website and a lock box will also be made available. Stated she understood, all was up and running and will check with Chief Janvrin

Old Business

None

Correspondence

- Jack Rybicki email regarding Central Park
- Jack Rybicki email regarding COA/Senior Center/Town Hall
- Newbury Golf Center letter of support
- Xfinity letter dated 12/16/20, channel changes
- Xfinity letter dated 12/22/20, courtesy fee adjustment
- National Grid letter dated 12/16/20, regarding Yearly Operational Plan

Meeting Updates

- Mass municipal association reached out to Alicia for a reappointment to fiscal policy committee, waiting to hear back

Review of Meeting Minutes

- Select Board Draft Meeting Minutes 12.22.20

Motion: A. Greco moved to accept, seconded by M. Doyle

Discussion: None

Roll Call Vote:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey - Yes
Geof Walker – Yes
JR Colby –Yes

Warrants

Motion: M.Doyle moved to accept, seconded by G. Walker

Discussion: None

Roll Call Vote:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey - Yes
Geof Walker – Yes
JR Colby -Yes

Motion: M. Doyle moved to allow Chair to sign Warrants, seconded by G. Walker

Roll Call Vote:

Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey - Yes
Geof Walker – Yes
JR Colby –Yes

Public Hearings 7:15 p.m.

- Special Permit Modification Request continuation, Newbury Golf Center

Call to Order:

At 7:15 Chairman Paicos called the meeting to order and confirmed member access by roll call that all members and persons anticipated on the agenda were present and could hear him. He requested as he called the names, to respond in the affirmative as follows:

Planning Board:

Peter Paicos – Yes
Lawrence Murphy – Yes
Leslie Matthews – Yes
Woody Knight – Yes
George Morse – Yes
Mary Stohn – Not Present

Town Counsel:

Brian Winner – Yes

Town Staff:

Martha Taylor – Yes

Emily Noble – Yes

Anticipated Speakers:

Mike Rosen – Yes

Eric Sorensen – Yes

Scott Cameron – No response

Mike Lamb – No response

TJ Melvin – Yes

Tim Snay – Yes

P. Paicos and A. Greco read their scripts

P. Paicos did a recap of the project and the current status

P. Paicos inquired with Planning Board regarding receipt of materials on Sunday, January 10, 2021.

Planning Board does not feel enough time to review the items that were received on Sunday evening. Will not include in tonight's discussion.

Select Board will follow Planning Board decision. What was received was not what was expected to be received. Town was expecting a peer review from an independent lighting consultant. Instead we received new plans submitted past the deadline, which were asking for additional lighting when the previous lighting issues have not been addressed by the applicant.

P. Paicos, confirmed policy of the Select Board that all materials must be received by Thursday, prior to the meeting

P. Paicos, the applicant has not complied with the requirement to fund a third party peer review independent lighting consultant. There has been a request for additional lighting when our original lighting request has not been addressed.

Planning Board comments:

L. Murphy – No comment

G. Morse – No comment

L. Matthews – No comment

W. Knight – No comment

Select Board comments:

G. Walker – No comment

M. Doyle – No comment

G. Heavey – No Comment

E. Sorensen comments:

Eric Sorensen, Newbury Golf Center, 131 Scotland Road

Went back and forth with consultant, we wanted to bring in our own consultant. The meeting in November was postponed. We are willing to fund the lighting consultant. We added the Musco poles, which last summer discussion we said we were going to take them off and said we would come back in front of the board in 2021, which it is now, so we would like to fund the consultant with review of the parking lot lights and the poles and the landing area. We have realized being open four months that 35% of our business is night time and we do need to have those poles in order to survive. One light consultant to review all at once seems to make sense, both the parking lot lights and the landing area poles. Also, on Eastern side of the property we have planted 20 trees and completed 510 feet of berm between three and six feet high.

M. Rosen, Counsel for applicant

One concern my client had in November was the original quote, which my client agreed to for a consultant that the Town did approve and engage, was significantly lower than the funds requested of my client later in November. The reason for that, and there was communication between Attorney Winner and I, the first consultant went silent and essentially went missing, causing a significant delay, roughly 30 days or longer. At which point Attorney Winner found second consultant but was roughly 2 1/2 to 3 times original quote. That is what caused Mr. Sorensen some heart ache after we had agreed to fund a significantly lower quote. Once November hearing was cancelled, Attorney Winner did reach out to the original consultant. The original consultant did come back and I believe is the proposal you have now. It is not the original price but not as high as the interim consultant. As the cost were piling up and the once the hearing was postponed from November to January, Erik reached out to Mr. Berry at Musco lighting and it became apparent that what a consultant is going to do and the measurements they are going to take at the lot line, trespass, analyzing the data and the fixtures they would redo the exact same thing, duplicating the costs if and when Erik would come back with the poles in the spring. So after some discussion with Mr. Berry and in order to provide Erik comfort that with the poles added there would be no light trespass, Musco did the photometric plan which was submitted, obviously we do not have to look at tonight but it is now part of the record and does show that Musco lighting is representing that the plan with the additional poles will result in zero light trespass. It was after Erik knew Musco stood behind their design and could show on a photometric plan that Mr. Sorensen determined it was worth submitting not all the light poles but several of them back on the plan and then acknowledge that they would agree to pay for the consultant and start to review the work that Mr. Berry at Musco has put together to confirm that it does in fact conform with what the Town is looking for.

P. Paicos asked Brian Winner his recollection of matter

B. Winner

Pulled up emails. First consultant he reached out to in August, time line starts in early September. So if we are talking full time line we are talking a four and a half month period not just November to now. Early September I attempted to on board a consultant, received a proposal and forwarded to attorney Rosen, around \$4,500, ball park. True although we did exchange certain edits to engagement agreement; we had scheduling conflicts or inability to communicate to on board that consultant. So Martha found a second consultant, who came back with a different proposal, which we passed along to the applicant and the applicant did not agree to.

That led up to the November meeting, which we had hoped to have accomplished but was not accomplished so we continued yet again, so that we could accomplish one of two things:

- Brian reach back out to first consultant to see if we could retain that person
- Applicant to propose a potential consultant, the idea being an independent, third party consultant who had not worked on this project before

I reach back out to first consultant November 12th, we agreed upon an engagement letter which was passed along to Attorney Rosen, but that was not acceptable

Between November 17th and today, no other individual has been suggested to me for consideration

So we had someone ready to go on the table but it did not come together

P. Paicos, ask B. Winner to confirm that the Town reached out to, two, individuals, to try to facilitate to have an independent individual to be involved in the discussion.

B. Winner, that is correct

P. Paicos, ask M. Rosen how many independent individuals were you able to reach out to?

M. Rosen, stated I believe reached out to three different individuals. And I did fact communicate to B. Winner, when we first started the process back in August or September. I was told the preference was that Board would identify the person so there would be no concern there was any bias. And then we went looking again in late October early November, we did not have any luck which is why we then circled back to Musco.

P. Paicos, who is not an independent consultant as per our agreement

P. Paicos, thanked attorney Winner for his efforts

P, Paicos, asked if anyone in the public had any new information they would like to share with the Board

M. Taylor, we have received a couple emails since the October 14th meeting, she read the authors and dates. Emails are available upon request

No raised hands

P. Paicos, opened up for Planning Board discussion:

L. Murphy, remembers lighting taken off table and has crept back in. Suggested to have lighting as a separate item. Inclined to put lighting aside, wrap up other remaining issues such as stabilization of the site but believes Conservation has a good handle on that. Also, site barriers on east side of the property but from what has heard tonight, there has been some additional efforts in that direction. Inclined to put lighting aside and allow Eric to come forward with his best plan and let that go forward on its own merits.

G. Morse, thought had been said to put lighting aside also and take care of the other stuff

P. Paicos, clarified which lighting was taken off the table. Which were the tall 50 foot poles in the landing area, and were taken off the discussion. The plan that was approved does not have the 50 foot poles. We are working with the approved plan

G. Morse, I stand correct than

M. Rosen, interjected. The approved plan has the poles, the plan submitted for the modification does not, because trees were taken down after the 2017 approval. The question was does the approved plan have the poles, and the approved plan actually does. I just wanted to correct that point

B. Winner, when you are referencing the approved plan I am understanding you to mean the plan that the Board provisional approved in August of 2020, does not show the 50 foot pole, Musco lights. If mean approved as in 2017, that's a different story, that is not in front of you. The plan that is in front of you the A2520 plan does not show the Pole lights.

L. Matthews, would like to move forward without lighting

W. Knight, agrees, would like to separate the lighting

A. Greco addresses Select Board

G. Walker, agree would like to separate the lighting.

M. Doyle, agree separate the lighting

G. Heavey, agree separate the lighting

P. Paicos, final site plan deviation from original proposal mitigation plan. Berms done with out Board approval. An applicant was aware he was doing this at his own risk. Any thoughts regarding mitigation

M. Taylor, concerns Concom had regarding storm water calcs, particularly in the landing area, south of the driveway. Discussion with Mike Lahan. Has not received confirmation if he is comfortable with the way it was re-sculpted for dealing with the storm water. Berms that were put in were deviation from original modification plan. There were additional trees that were to be planted on the eastern side and are completely off the plan now. So, there are things like that which have not been discussed

L. Murphy, Martha do you think we are in a position to issue a conditional decision on this?

M. Taylor, one issue is discussion was because of the cutting of trees that were beyond the limit of work and some trees that were a buffer along the eastern property line, discussion was let's get grades done, lighting in and buildings up and see what needs to be mitigated. One of the issues is even with the plan from Musco showing still glare and shadowing, issues that have not been addressed, in terms of screening mitigation. Any conditional approval that would need be taken into account.

P. Paicos, my concern is we have done conditionals but has not worked out yet

G. Morse, I'm told all the items that are locally done, up by the hill, are in good condition. Inquired regarding condition specifics

L. Matthews, no comments

W. Knight, no comments

A.Greco, addressed her Board

We have special permit process it's a little different than what the Planning Board has. Asked Select Board for comments on anything but lighting

G. Walker, been going on long time, gone through a lot of reiterations. The landing area lights are going to complicate matters, and I understand Erik wanting to save money. Certainly, the Other boards seem close to tying up some of the issues. I forget what all the issues are.

A.Greco, extract the lighting from this comment. Does Planning Board have a short list of other mitigation issues are?

M. Taylor, I do not have the full list in front of me. Storm Water management, Tree planting and other landscaping that was not on original plan and changes that were made during process that was not discussed with the Board.

P. Paicos, things were done and now we are in a catch up. An ever changing project. Does Select Board have any specific concerns or comments?

G. Walker, main issue is lighting until that comes together all the other issues will fall in line

M.Doyle, no comment

G. Heavey, no comment

A.Greco, I think issues that need to be flushed out, not certain can be done right now as far as mitigation

P. Paicos, another component is screening, which is dependent on lighting. So not sure current screening will be adequate or not. Not sure what that will leave us

L. Murphy, until lighting resolved cannot determine adequacy

G. Morse, Woody mentioned berms and parking area to cut down lighting are those in yet?

P. Paicos, yes.

G. Morse, security lights for staff, has that been resolved?

P. Paicos, it could be, looks like lighting is coming off the table, if that's the case may need hours of operation from dusk to dawn. Appears we are going in circles

G. Morse, Has everything else been satisfied provided lighting taken care of separately?

L. Matthews, until screening taken care of cannot talk about lighting

W. Knight, other than the lighting needs Storm Water Calcs which are based on as built not on original plan. Recalls a Screening problem at Carbone's shed, I recall Eric and Carbone's were going to work together to resolve, hard to know where screening needs to go with lights being taken off the board.

P. Paicos, conservation I think is ok with calcs. Last conservation meeting more about site stabilization and growth

P. Paicos, Three things we have touched upon, lighting, final site plan and screening. Feels his Boards comments are right on que

M. Laham, would like to comment. Moran Cameron Group, civil engineer

Feels there is some confusion regarding what constitutes mitigation and goals of screening, which we presented back in August. Asked to share screen to identify the two plans we are working with

P. Paicos, asked if he wanted to discuss the August 20th plan. Does not feel confusion as what has been done. What is here now and how do we go forward. Site stabilization from an engineering stand point is handled. Berms built, trees planted, grass is growing. That is where we are at right now. I do not know if will be more mitigation necessary based upon lighting, we do not know what that is as we have not been able to get over that hurdle for months. So, I think from your perspective we are okay.

M. Laham, there has been discussion in the past 10/15 minutes regarding removing lighting, when talking about lighting being a separate item what specifically are you referring too? The Musco lighting? Or the parking lot lighting?

P. Paicos, does not want to get into the lighting as the board is in deliberation regarding all the other stuff we have heard. So if you have information to help us with this last piece which is the final screening component, we are now into the third part of the discussion, that's great. But if going into the lighting discussion, I do not want to go there, if that is okay.

M. Lahan, our position on screening is what was proposed on mitigation plan, the revised August plan, our opinion screening in place is good as or better than what was approved. And now question is, what will the lighting consultant say and that is where we are at.

A.Greco, polled her Board regarding property line mitigation

A. Greco clarified with lighting removed, do you think that there is an adequate mitigation

G. Walker, mitigation for what? Darkness without the lights?

A.Greco, there was a significant buffer along the Eastern side that was cut beyond limit of work

G. Walker, what are we buffering for? I'm good with whatever Board is good with

M. Doyle, fine with mitigation as what has been done

G. Heavey, I agree with Mike

A. Greco, I am not sure that there is adequate mitigation there even without the lighting, huge space by the shed.

Is there a plan that shows the planting by the shed?

Martha, there was a group of plantings that were done by the shed that do not show up on the plan we received

A. Greco, so it is possible it is mitigated properly without lighting but I do not know that for sure

P. Paicos, back to Planning Board, this is where we have been the last four months, trying to appease superseding conditions. I would entertain a motion at this point from my Board

G. Morse, inquired what type of motion was Peter looking for? To wrapping up the hearings on everything but lighting and then continue a separate hearing for the lighting?

P. Paicos, if it is the will of the Board to close I would entertain that motion and then see where we go from there from Town Counsel. The lighting would come back as a second application.

M. Taylor, advised of a raised hand in public

Public Comment:

Dale Williams, 12 Scotland Height Drive, Newbury

- Commented past three years felt there was one word to describe the process and that is paralysis. Hearing Majority of Planning Board and Select Board are ready to move on.
- Mitigation on east side of the property, a hand full of trees had been cut. 20 to 22 trees have been planted to replace
- Newburyport chamber of commerce came to the Golf center to have a ribbon cutting service as they felt important to the development of commerce in the area. Then we have the Town Newbury, puts in road block after road block. My question, do any of the Boards care about Business development in the Town of Newbury or are we going to continue to put up road blocks so no other business is going to want to come here based off of this experience?

P. Paicos, I think you asked the question, with regards to Board being obstructionary and I am not sure when you tuned in, but there is a historical perspective that the Board allowed this entity to start a business. We did not have to do that we were trying to facilitate the process. We specifically did not have a hearing in November because we did not want embarrass the applicant by asking why there was not a lighting consultant. This Board has worked hard to facilitate and Town Council has worked hard to find lighting consultants. I take a bit of offense that the Board has been obstructionary. We have spent many, many, hours trying to find a solution to this situation. And at this point in time our role has come to a cross roads.

P. Paicos, polled Planning Board

L. Murphy, you suggested motion to close the public hearing, which is going to start a clock regarding when decision needs to be filed with the Town Clerks office. Coming back to my earlier question to Martha, are we in a position to issue such a decision?

P. Paicos, suggested asking Town Counsel

B. Winner, Options: deny, approve as proposed or approve as proposed with conditions. There are two ways to Approve. If you approve the plan as presented, 8/25/20 plan, you are accepting the mitigation and what is shown on the plan and you can attach appropriate safe guards. Second version you approve subject to additional condition. Difficulty is, if you approve as presented on 8/25, without any peer review without any certainty that plan actually shows what's on the site and whether that is sufficient, there is something missing in your process by just approving the plan shown on 8/25. Equally troublesome is approving the plan subject to conditions you would draft to address concerns, without benefit of consultant, the Board may not feel that it is in a position to draft those conditions and if effective conditions. Brian provided a hypothetical example. Expressed Boards are between a rock and a hard place and understands it's a difficult choice. If the public hearing is closed those are the choices which will be in front of the Board, deny, approve or approve with conditions. Each one presents difficulties and consequences for the ongoing operation. Newbury Golf Center is open and operational pursuant to this interim superseding order that the Boards saw fit to allow and one of the conditions was a peer review consultant would be engaged and get a report by now but also the certificate of occupancy was tied to that approval and the conditions. There are real consequences to what steps the Board takes next

G. Walker, did Musco present a solution for zero light trespassing on just the landing area or did they also do that for the troublesome lights in the parking lot?

P. Paicos, Geoff all I can tell you is an email was received by Martha, Alicia, myself, Mike, Gerry and Leslie on Monday night

G. Walker, if that is the case with Musco, at the site. Maybe that is what we should try to move forward with and meet with neighbors to see if zero light trespass. If Musco did not do that and they only did for the landing then my hypotheses is not worth it

A. Greco, because applicant has not provided documentation that we asked him to provide to us, it puts us all in a difficult spot. It puts the applicant in a difficult spot and at risk.

B. Winner, had things occurred according to plan a peer review lighting consultant would be on this call now, who would answered that question, that was the intention. We should know the answer to the question.

M. Rosen, we agreed to the first consultant he did not show. First was \$3,000 second \$7,800, third one didn't come back until after the last hearing. Brian went back to the first one who agreed to come back but jacked up price to \$4,500. Eric figured would have Musco look at. We were prepared to pay first consultant back in August and he did not show.

P. Paicos, several emails that were sent in November and December that were not responded to. What has not occurred is we do not have a consultant on Board who was mutually agreed upon and we have had four months to do that. The last consultant was costing \$4,500. The reason why the first consultant was so high was that the

first consultant did not have all the files he requested, which we requested from the applicant and the applicant said we would get it once we had a consultant in place.

M. Rosen, the first consultant was \$3,000. We asked for him to get in touch with us and we would give him the information. The second consultant came in at \$7,800 not the first and the second we asked what we could do to get that price down including providing him all of the data. We asked those questions. I agree it has been four months but the first two months were not the applicants fault. The applicant agreed to pay and provide the data in August. To answer Madame Chairs questions, what can we do to get this done. I will ask Eric on the spot now. Will you deliver a check for \$4,500 tomorrow and will tell Mike Berry from Musco to do whatever the consultant tells him and to deliver that information

E. Sorenson, Yes

P. Paicos, Time out. What we agreed to was to have an independent consultant who had no economic interest in this project to give us a professional opinion without economic interest to help the Board make a decision.

M. Rosen, we are not asking for Mike Berry to be the consultant. We are asking Mike Berry to provide the information you have suggested your consultant needs to have. So what I was suggesting was Eric show up with a check tomorrow for \$4,500, what I was suggesting was Eric instruct Mike Berry to cooperate with the Town's consultant and provide the information that you just indicated we had not been previously willing to give. Which I do need to correct, we were willing to give we just needed to know who we were delivering to.

L. Murphy, I'll be honest I am stunned you have hundreds of thousands of dollars invested into this and put on hold for months for a few thousand dollars for the consultant fee.

G. Heavey, seems now we have an independent consultant?

B. Winner, as of November 17th he was willing and had provided an engagement letter but we never received funding so not certain now

G. Heavey, it seems to me if we do not know, we need more information and we can't go forward, why don't we continue this for a short period to be sure you do have a consultant, in couple weeks find out if the independent consultant is on board. Push the date far enough out so that report on the lighting can come back so we can conclude this

A. Greco, If Boards decide to entertain moving this ahead again, what plan are we going to be looking at? I have meeting notes here from August 8, 2017. I have notes here Attorney Rosen agreeing to removing the 50 foot lights, completely removing them and not bringing them back to the Boards until a much later date, until this process is closed. The plans I believe that the Town has, have those lights removed. I am not willing to entertain adding those lights on again the way those plans were submitted to us. I feel the lighting issue as it currently is we/the Town had agreed to a lighting plan, the applicant took it upon himself to do something completely different without getting the Boards approval. Quoted from a June 5, 2018 public hearing. Then stated I feel we need to separate the lighting. I think Eric has viable business, has potential to grow but I think he should for now, operate during day light hours but need to deal with having the other mitigation pieces are shored up. We do not have to do that tonight. We can close this public hearing and then come together at a later and go over

everything that is missing, make certain the Town has everything that has been promised and then Eric can continue his operations. That is the direction I would like to go.

A.Greco polled her Board

G. Heavey, that seems like may be a possible solution

M. Doyle, I'm fine with going ahead with that

G. Walker, lighting has been the problem from the beginning so I am ok with this

P. Paicos, If I understand this correctly, the Select Board is willing to close this hearing and come up with a series of conditions through Town Council and Town Planner to bring back as discussion points and then the lighting issue will be taken up by the applicant at another time when there can be different perspective on it

A.Greco, confirmed Yes

P. Paicos polled the Planning Board

L. Murphy, my only concern once again is the clock once you close the public hearing getting the decision filed with the Town Clerk. I think it's a fine way forward

G. Morse, I agree

L. Matthews, Isn't that the presentation that Town Council made and that was choice number two. I think going with it and the conditions might be the best way to move this forward

W. Knight, I think we close the public hearing

P. Paicos asked to entertain a motion to close the public hearing

Motion: L. Murphy move to close public hearing seconded, L. Matthews

Discussion: None

Roll Call Vote:

L. Murphy – Yes

G. Morse – Yes

L. Matthews – Yes

W. Knight – Yes

P. Paicos – Yes

A.Greco asked to entertain a motion to close the public hearing

Motion: G. Heavey moved to close the public hearing seconded, M. Doyle

Discussion: Discussion ensued

G. Walker – Yes

M. Doyle – Yes

G. Heavey – Yes

A. Greco - Yes

B.Winner, summarize direction paths for the Boards

Back to usual time lines in regards to closing public hearings and drafting decisions. Special permit have 90 days to wrap up and file your decision after the 14 days following. We have 3 month plus two week window. Now the public hearing is closed so you do not have to continue to do a date you can put on your agenda as it fits, it may be advantageous to continue to hold jointly. The time line is a little bit tighter on the Planning Board side. In the meantime, I believe Martha and I would benefit from some direction from the Board in regards to preparing a draft with draft conditions to consider. Maybe the time to get that would be at the next meeting. The Board would need to decide what kind of decision it would like to see prepared. You can approve the site plan and identify exactly which site plan we are talking about. You can review that plan and decide if you would like to attach any conditions to it. Also, the interim permission contains restrictions on the lighting, on other aspects and those are things you will need to consider on the next step.

P. Paicos, inquired if anyone had any questions for Brian Winner at this point

L. Murphy, we have in the past moved to have the Town Planner with the assistance of the Town Council to draft the decision consistent with the Board's deliberations. Would that give you enough direction Brian?

B.Winner, I think it does. I think we will need some more assistance as we go along through this process

L. Murphy, I'm thinking a fairly quick turn around a short continuance, where we could have a draft to look at and then refine the points we need to make

B.Winner, my opinion and I am not going to speak for Martha, is we could as we do have written decisions from 2017, we could use those to draft a skeletal decision for you. And then highlight what is missing and what areas the Board needs to decide where we need to plug in some additional condition or other parameters. I think we could provide a template that would be a good launching point for the Board to work from.

L. Murphy, that is what I had in mind.

G. Morse, no questions

L. Matthews, no questions

W. Knight, no questions

P. Paicos, asked Brian Winner, we have 90 days in one perspective and 25 days for Planning Board ?

B.Winner, I believe that are what your rules and regulations require for site plan review submissions

P. Paicos, asked Martha for date thoughts

M. Taylor, going to be a joint effort with Brian. I don't know at this point

B. Winner, I do expect to take the lead to draft something

P. Paicos, open to suggestions for a follow up gathering

L. Murphy, if you mean a date, I believe Brian made the point we do not have to choose a date tonight

B. Winner, because the public hearing is closed you can post an open meeting law compliant Agenda with 48 hours' notice so I think we can move this along

L. Murphy, Peter if I can suggest, maybe we can hold a special meeting for it

P. Paicos, inquired if any other comments from Planning Board

G. Morse, no

L. Matthews, no

W. Knight, no

P. Paicos, inquired with Alicia if she or her Board members had any questions

A. Greco, I am going to ask Martha to please send along to the Board the original Special Permit approval and the conditions that were approved along with the meeting date and minutes if possible so they can go back and watch where the thought was on the original when the Special Permit was granted or Julie could do. And then I would like the specific criteria for us to review. The better prepared we are the quicker it will go. Anyone have any questions for Brian.

G. Walker, if we are going in this direction does that mean the site plan review could be okayed, but it would be okayed without lighting?

B. Winner, that is one of the things the Board will have to consider. Lighting off the table, sufficiency of mitigation, whether or not to approve the plan with any stipulations or mitigations. As I understood it, lighting is off the table.

G. Heavey, the planning board voted on the motion to close, we did not

A. Greco, confirmed the Select Board did vote to close

P. Paicos, handed over to JR Colby to start the next public hearing

- Water Supply Protection Overlay District Special Permit application continuation, 3 Newburyport Turnpike

JR Colby entertained a motion to continue the 3 Newburyport Turnpike WSPOD Special Permit public hearing

Motion: M. Doyle moved to continue the public hearing seconded, A. Greco

Discussion: None

Roll Call Vote:

JR Colby - Yes

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey - Yes

Geof Walker – Yes

P. Paicos, asked the application engineer to present any new information, revisions or submissions. Inquired with Martha if received comments from our review engineer from the last submission

M. Taylor, confirmed no not yet

TJ Melvin at Millennium Engineering spoke, since last joint meeting made minor changes. Tweaks to parking areas, some details modified for bio retention area. Mentioned Timothy Snay, from Ransom Consulting on the call too. Stated he knew Boards had concerns regarding hazardous materials on site. Offered to share his screen. Pulled up Site plan and reviewed changes.

JR Colby polled Select Board for questions:

G. Walker, reviewed the solution statement, curious to know if those solutions underneath the site have they been broken down? Because when infuse water from the rain gardens what will happen to them, will they make their way into our water table? Reading some of the solution statements, I was not getting a clear picture.

T. Snay, looked at prior data by Arcedius in 2017 and recently by Conoco engineers in 2020. For the most part areas of contamination, basically two types of contamination; petroleum hydro carbons, related to former underground storage tanks, those are in the area in the footprint of the proposed building and to the west towards Newburyport Turnpike. The area east, as I recall was pretty clean in regards to soil contamination from petroleum or other metal contaminants. South western most corner, there is area of ground water that has been impacted by chlorinated solvents, and those contaminate concentrations are above the State standards for vapor intrusion, which is being addressed by the applicant as far as construction design but the concentrations are below the State standards for overall quality of ground water in the Commonwealth. Meaning their ground water free standards which are meant to be protective of the ultimate discharge of ground water to surface water. I think another mitigating factor here is the site has 30 foot layer of clay, silty clay, so there is 4 to 8 feet of what is likely fill, but below that is a clay material which will help prevent migration of some contaminants that are in ground water. Also, the concerns regarding enhancing leaching of contaminants I think by adding pavement sections to areas of the site, that will prevent infiltration of precipitation, that will limit leachability of the contaminants. Sources of contaminants have been removed expect concentrations to drop in particular the petroleum contaminants

G. Heavey, no comments

M. Doyle, no comments

Planning Board polled for comments

M. Taylor, no comments

L. Murphy, no comments

W. Knight, no comments

L. Matthews, no comments

P. Paicos, Tim the clay layer how deep is that?

T. Snay, from reports they define subsurface conditions at site as sand and gravel 48 feet below grade, light gray brown clay at 30 feet below grade which was deepest boring at site

T. Snay, soil above water table are considered clean. Contaminates were identified below the water table. Data goes back to the 1990's, no soil sampling for a while, focus has been on ground water. Can provide the data for contamination in ground water however, it is pretty old data

P. Paicos, expressed concerns using data from the 1990's

A. Greco, Select Board has to decide on whether or not once the ground is moved will any of the contaminants infiltrate the water

T. Snay, does not feel so. Will not fall off soil and fall into ground water

JR Colby, how deep do you have to dig for this project?

TJ Melvin, roughly 4 to 5 feet. Pipes roughly a foot above the contamination level, half a foot to a foot above ground water

A. Greco, asked if Newburyport DPS is requiring TJ to encase water mains

TJ Melvin, DPS has not request however he has offered to encase pipes in concrete. Waiting to hear back from Third Party review which is due by the end of the month

T. Snay, inquired what the concern was

JR Colby, concern is twofold. Concern for infrastructure for municipal water and also for releasing particles into Newbury ground water. Agrees with Mr. Snay contaminants attach to soil particles and adding impervious in this case will only help them not to leach into the ground

G. Walker, only concern was runoffs roof, pavement etc. and the bio detention gardens and what does that do to the ground water and volatile pieces of sand

T. Snay, does not envision that being exacerbating to ground water across the site as it is now unpaved. Still have infiltration but where the Stormwater detention basin is be installed not a lot of contamination that could be mobilized

A. Greco, third party review by who?

TJ Melvin, does not recall the name, company located in Maine. Per contract have video call by the 19th and memo by the end of the month. Review comments from Newburyport DPS regarding why pipes are installed as they are and Tim had prepared a letter in response to comments from the Water Superintendent

JR Colby, inquired if the Board would like to wait for the report

M. Doyle, replied thought a good idea to wait

G. Heavey, this report will it include Newbury? Or just Newburyport

TJ Melvin, it's specifically in relation to concerns with if the soil or contaminants can infiltrate the water system
It is not a full site review. Asked for a moment while he pulled up scope of third party on to the screen.

JR Colby, commented he did not know if the protection of Newburyport pipes is in the Newbury Select Boards
purview

TJ Melvin, Newburyport Planning Board has not asked for any additional information

T. Snay spoke, state level oversight during earth work activities at the site as part of construction

JR Colby asked for a straw vote from the Board regarding if they want to wait on the report

A.Greco, would like scope of work for third party

M. Taylor displayed the two findings the Select Board is responsible for

M. Taylor read the two findings out loud

TJ Melvin brought up third party scope on screen

T.Snay only requirement from regulatory stand point is to provide the Mass DEP with a release abatement
measure plan. Nothing that is required in terms of occupancy of the site. Not clear at this time who will prepare
the RAM Plan

M. Taylor clarified the parking underneath the building is enclosed and partial will be retail

G. Walker inquired if this goes to ConCom

M. Taylor, confirmed it had. Only item Martha was aware of was ConCom wanted different plantings in the bio
detention area

P. Paicos polled the Planning Board for questions

Peter Paicos— No

Lawrence Murphy - No

Leslie Matthews - No

Woody Knight — No

George Morse — No

Discussed Boards tracking differently as have different scopes

JR Colby reiterated recommended to leave the Public Hearing open until the decision is drafted

M. Taylor concurred

JR Colby polled Select Board members if they require any additional information or if okay with tracking on our own

Roll Call Vote:

JR Colby - Yes
Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey - Yes
Geof Walker – Yes

Motion: L. Murphy moved to continue Public Hearing to Feb 3 , 2021 seconded, W. Knight

Discussion: None

Peter Paicos– Yes
Lawrence Murphy - Yes
Leslie Matthews - Yes
Woody Knight – Yes
George Morse – Yes

JR Colby inquired with the Select Board if they are ready for a straw vote or wanted more discussion

A.Greco stated thought needed more discussion and asked M. Taylor to pull up the findings

A.Greco reread the findings. First finding in her opinion has been met

JR Colby polled the Select Board

Discussion: Discussion ensued

Roll Call Vote:

JR Colby - Yes
Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey - Yes
Geof Walker – Yes

A.Greco read second finding and asked if Select Board agrees

Roll Call Vote:

JR Colby - Yes
Alicia Greco – Yes
Michael Doyle - Yes
Gerry Heavey - Yes
Geof Walker – Yes

Discussion: Discussion ensued

Motion: A. Greco moved to continue the public hearing February 9, 2021 at 7:15 p.m. seconded, M. Doyle

Discussion: None

Roll Call Vote:

JR Colby - Yes

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey - Yes

Geof Walker – Yes

Adjourn

Motion: At 9:56 p.m. L. Murphy moved to adjourn seconded, L. Mathews

Discussion: None

Roll Call Vote:

Peter Paicos– Yes

Lawrence Murphy - Yes

Leslie Matthews - Yes

Woody Knight – Yes

George Morse – Yes

Motion: At 9:57 p.m. A. Greco moved to adjourn seconded, M. Doyle

Alicia Greco – Yes

Michael Doyle - Yes

Gerry Heavey - Yes

Geof Walker – Yes

JR Colby –Yes