

December 18, 2017

7:00PM

Selectmen's Meeting and Joint Fin Com

Present: Don Chabon, Chuck Cardillo, Terry Flynn, Danielle Fillio, Ray Miyares, Finance Committee
Don welcomed everyone to the meeting.

Holiday Announcements:

Don began by wishing everyone a Happy Holiday season and that the next meeting will be January 3, 2018 where they will be signing the warrant for the Special Town Meeting. He briefly went over the agenda.

Special Town Meeting - Discussion and vote:

Don made a motion to hold a Special Town Meeting on Monday, January 22, 2018 at 6:30PM in the Stockbridge Town Offices, 50 Main Street, Stockbridge, Massachusetts. Chuck seconded; the vote was unanimous.

Highway Garage – Vote:

Don moved to place on the Special Town Meeting Warrant an article authorizing the Board to borrow a sum of money not to exceed \$2million to replace the existing garage with the 5 bay proposal. Chuck seconded.

Mike Kulig, Berkshire Engineering, came to the podium to present the garage plans. He stated that following the last meeting a number of options were presented. Option one kept the Talbot Center as is, the garage extends 20 feet on either end and 10 feet to the back of the building bringing it up to 7200 square feet. It leaves a separation between the buildings with a slight concern with existing traffic as this will not allow to push the garage back but leaves the Talbot Center intact.

The second option would be moving the garage almost completely into the flood plain; freeing up space but possibly too much; there would be a significant body of flow of the flood plain that would have to be replaced somewhere else.

The third option would rotate the garage 90 degrees putting some of the building into flood plain but could complicate matters more with traffic conflicts.

With the three options it comes in at about 1.87 million and the unknowns will add more money.

Terry asked if the 1.8 million included the demolition and Danielle said that they already had the money for the demolition.

Jay Bikofsky asked when they could expect definitive proposals and secondly, when would these options would be presented for the warrant.

Danielle stated that these three options all keep the Talbot Center.

Chuck asked that in the first plan if the building was coming forward and Mike said that front face is generally the same aside from the front corner.

Mike said that if he could get feedback on which plan is decided on he could better provide timing.

Steve Shatz had some questions about the numbers so they be properly presented to the Finance Committee when they meet to recommend or not the proposal. The estimated cost is 1.875 million dollars, in addition there are bond related expenses, and they need to know the net amount to understand the bond amounts. He said that there is only \$96,000 left unspent in the \$200,000 bond from last year for the extra expenses including the demolition. They need to understand how the \$96,000 is going to be spent, estimates on permitting and engineering, demolition and if any plans chosen push the building into the flood plain, the added expenses there. They also need to understand the time period for permitting so to understand when construction can start and measure that against the anticipated increases in the discount rate which the Fed has already announced that there will be two and possibly three increases adding additional expense to the Town. Time is important and they need the information. In respect to the demolition, with possible additional environmental remediation, the costs impact the amounts. Steve said they need these amounts soon to be able to make a recommendation, hopefully before January 2nd when the Finance Committee meet.

Mike said that they do not have full demo bids yet but a rough number is around \$70,000. Most of the environmental mediation had been done and they will provide numbers.

Jim Balfanz asked if the 1.8 million was based on option one. He felt that option one that kept the Talbot Center intact, had less environment impact, and saves money would be his choice.

Terry asked when the Board would be making the decision on which option to move forward with.

Chuck said that the first option made sense to him if Lenny agreed. The Board agreed.

Don repeated the motion: I move that we place on the Special Town Meeting Warrant an article authorizing the Board to borrow a sum of money not to exceed \$2million to replace the existing garage with the 5 bay proposal. Chuck seconded. The vote was unanimous.

Treasurer-Collector Special Act - Information, discussion and vote:

Don made a motion that they place on the Special Town Meeting Warrant an article to authorize the Select Board Chairman to request of our State Representative Smitty Pignatelli a Special Act of the Massachusetts State Legislature that would combine the Stockbridge Town Collector and Town Treasurer positions into one position and make this position appointed (vs elected). Chuck seconded.

Ray explained that most Towns in Berkshire County have appointed officials over elected and it is about half and half on whether they are separate or combined positions. The Department of Revenue recommends combining the positions and have them be appointed positions. The DOR's view is that elected officials are policy making and professionals do the implementation.

He said that assuming that the goal is to make a combined Collector-Treasurer position and make it appointed; there are two ways to do this. One is the process created by general law, by statute and the other is to get a Special act.

The first is to put an article on the warrant for a Town Meeting to combine the positions. This would have to pass at the Town meeting by simple majority vote. After that the Select Board would need to place a ballot question at the Annual Town Election at least 35 days following the annual town meeting or 60 days if approved at a Special Town Meeting, which would require a majority vote. As the Collector position is currently vacant, if they do nothing, they will be required to hold an election to fill out the expired term of the recently retired Collector. In the statutory process they would have a vote to elect somebody as Collector and a ballot question to abolish the collector position and create a new joint position. The incumbent Treasurer would be entitled to complete her term until 2020. The elected collector would serve until the position is combined. It is a sound process yet confusing to the voters.

The DOR's opinion is the better way is to go by Special Act. Those steps are to at the upcoming Special Town Meeting the vote would be made to pass the Special Act be adopted and pass with the majority vote, it would go to the legislature to be approved before the candidate start taking out papers for election. Don mentioned that Danielle had already submitted a Special Act draft to Smitty Pignatelli. It was referred to House Counsel, appropriate adjustments were made and it is ready to go it the Town votes affirmatively.

Craig Berger, 8 Miller Road, asked what the impact of the Act would have on our current Treasurer. Ray said that the Act would allow for the current Treasurer to complete her term and be appointed Collector-Treasurer. Ray said that at the end of two years it would be up to the Board to reappoint her or someone else for a three year term. Ray said that if the Treasurer would be ok with being a three year term now it could happen.

Ginger Schwartz, 22 Main Street, asked why she would need to be reappointed after three years. Ray said that as it is a contract it would be a three year contract which is the usual maximum.

Nancy Socha, recently retired Town Collector said that she was very happy with the Selectmen deciding to combine both positions and that she was excited for moving forward with Karen.

Jay Bikofsky, Finance Chair, said that the Finance Committee voted in favor , 7 – 0, to recommend the appointment of the position.

Don asked for a vote for the Special Act legislation; all were in favor.

Recreational Marijuana - Discussion and vote:

Don stated that the Town voted 61% to 39% in favor of recreational marijuana vs the State vote of about 52% to 48%.

He said that they have several options and that the State has not yet defined the parameters, the Board would like to declare a moratorium until they get better definition from the State. Ray said that many towns have already adopted moratoriums. By the end of January the State will be issuing draft regulations and adopt in final form in April. The statute contemplates the existence of growing establishments, processing establishments, testing establishments and retail establishments. Each will be licensed at the state level but they will ask each Town if they are permitted under their Town zoning. If a Town does nothing a retail establishment will be permitted in the retail business district, a processing establishment allowed in the industrial district, and possibly a testing establishment would be allowed in the industrial district and the growing would also be there. The advice that they had been giving to all of their Towns is that they are wise to adopt a moratorium.

Moratoriums would not be approved to last longer than December 31, 2018. Zoning bylaw restrictions that the Town chooses to come up with would need to be decided on by a fall (September/October) Town Meeting.

Don mad a motion to put on the Warrant a moratorium for recreational marijuana establishments in the Town of Stockbridge. Chuck seconded; all were in favor.

Ray said that this is a Zoning amendment and therefore will be forwarded to the Planning Board and the Planning Board would have to agree to hold their hearing fast enough to enable the Town to vote in January.

Charles Kenny, Board of Heath, said that the Board supervises the sale of tobacco and alcohol and asked Ray if he thought that the Boards of Health would have responsibility in any of those ways for the sale of marijuana. Ray said no, jurisdiction over inspections is solely on the state level.

Don made a motion to instruct Danielle to refer the moratorium bylaw to the Planning Board. Terry seconded, all were in favor.

37 Interlaken/DeSisto - Bylaw change request announcement:

Don announced that they received the request, this is a ministerial function, and the Select Board does not have discretion on that.

Don made a motion that the petition for a Zoning Bylaw change received from 35-37 Interlaken Road Reality Trust be transmitted to the Planning Board as required by Chapter 40A Section 5 of the Massachusetts General Law. Chuck seconded.

Don said that they need to transmit this to the Planning Board by December 22nd.

John Hart, Rattlesnake Mountain Road, asked what the amendment said.

Alex Glover, attorney for abutter Victoria Sujata, said that it makes the Cottage Era Estate use a by-right use, which is an extraordinary change to the bylaw. The only limitation is that it would be subject to a site plan review but it does not give the Town the ability to deny; only the ability to shape the project.

Ray added that currently these Cottage Era District special permits are issued by the Board of Selectmen but site plan review would occur before the Planning Board.

Don stated that this was moved and seconded. He asked for a vote and all were in favor.

Terry Flynn commented that he hopes all Town Boards look very seriously at this proposal as it is bypassing the way the Town approaches self-government and changing an approach to zoning. The average person will not be able to make things work with by-right uses for their particular properties. He feels that this is a very serious; move against the way the Town currently does things. It sets a precedent that if you have enough financial power behind you, you can alter things the way you want to.

Ginger Schwartz asked if they could explain by-right. Ray said that the Zoning bylaw states that certain uses do not need special permits. By-right would only require a site plan review before the Planning Board by simple majority approval and would keep the approval from going to the Board of Selectmen and decided by a super majority vote.

Ruth Pearce, Planning Board member, proposed to have the proposed changes on the website. Secondly she said that when this comes to the Planning Board they have 65 days to hold a hearing. She asked Ray that when it comes to them, do they vote yes or no or do they make revisions. Ray said that they could do either.

She asked again for clarification; if they vote yes or no what is the next step. Ray said that it would go to Town Meeting for the Town vote. It would go to the Town Meeting in any case of what they decide.

Ray also said that the applicant, owner of the property, is entitled to petition it to be on the Town Warrant.

If the Town Meeting votes to reject it, it cannot apply again for two years.

Kate Fletcher, Planning Board, reminded everyone that they have a Zoning Review Committee who is working through the Zoning Bylaws and reviewing the bylaws and are taking enormous care of this and urged people to come to the meetings. She felt that this would be a bad idea to circumvent this process.

John Hart said that there is a term on Wall Street called a hostile takeover and objects to the way of going about the way of approaching the Boards. He asked if this could be stopped and Ray said that any property owner is entitled to petition their government.

Nina Ryan, 3 Main Street asked for a summery step by step of the process.

Ray said that they took the first step tonight, The Select Board acting within 14 days, to refer it to the Planning Board, as required by law. Thereafter, once received, the Planning Board has 65 days to hold a hearing. Notice will need to be published 14 days ahead of time in the newspaper. There will be

comments at that time. They can then make a recommendation to accept it, reject it, make recommendation to change it all around, whatever they choose, or make no recommendation at all to Town Meeting.

Regardless of which, the Town Meeting is required to have a proposal, 65 days after, either the proposal the petitioner submitted or something the Planning Board recommends in its place. The Town will then vote and it will take a two thirds vote.

Charles Kenny asked if the Planning Board decided to have a hearing before the Special town meeting, regardless of the decision, if the developer was entitled to put, via a petition, the an article on the Warrant for the Special Town Meeting, without any intervention. Ray said that the Warrant is closing on the 28th therefore that is not possible. Mr. Kenny secondly asked that if the Planning Board does have a hearing and this appears on the Annual Town Meeting and the Planning Board gives a negative recommendation, does this mean that the developer cannot come back with the same proposal for two years? Ray said no, it only applies if the Town Meeting votes no.

Anita Schwerner, 10 Lake Drive, asked if it had been shown if the property actually qualifies under the current Cottage Era Bylaw. Ray answered that it had come to his attention that the main lot, on which the mansion sits, does not have the minimum frontage required by our bylaw. He continued that this is not an important impediment to this development. At any time the developer could submit what is called an ANR plan (approval not required) to the Planning Board and move that boundary to have the required amount of frontage. He said that the big change is that the proposal is to move the power from the Board of Selectmen and give it to the Planning Board; giving them less control over the project. Anita also said that there was discussion on the Cottage Era Estates in December at the Stockbridge Democratic Town Committee meeting and thought was to consider discussion and open it to the Town. Last week they made a request to the Zoning Review committee to sponsor such a forum and they passed their request on to the Planning Board. Ray said that he would leave it to the Zoning Review Committee. He also did not see how a separate open forum would impair the statutory process.

Denny Alsop, Main Street, asked if a person proposing a Zoning Bylaw amendment must be affected by the existing bylaw or as it will exist under his amendment changes. Ray said the latter; whatever is being proposed must have an impact on his property.

Barb Kenny, Meadow Road, would like to have an explanation of "by- right" on the website. The Selectmen approved.

Jim Balfanz, Interlaken Road, felt that the proposed amended bylaw change came as a result of making several requests to meet with the Select Board to discuss the proposal and answer questions, to cooperatively move the project along; and they were stonewalled with no other options. He said that if they take the emotions out of this, analyze what they've submitted and hopefully the Planning Board will do so expeditiously, give everyone the opportunity to express their opinions for it and against it and come to a decision that hopefully will be in the best interests of the town of Stockbridge and not any particular individuals.

Don said that the Board would certainly listen to all perspectives and all options at the appropriate time and place. He plans to see the proposals but not at a family fun day or PR job. He said that the Board will listen. Jim said that they rejected meeting with the applicants and was only getting reviews from the abutters.

Terry said that this is a massive, well-funded PR campaign. He felt the Open Houses were outrageous. The pressure put on him from one of the PR people was also outrageous. What he felt should have

happened was for them to come in and apply under the Special Permit process and he would have talked to them all they wanted. When they requested to meet with the Board he was safe in assuming that it was part of a continuation of a big PR campaign and he did not want to empower that, especially knowing already that they were going to be presenting an approach that bypass their regular order and normal boards.

Don said that the proposal will be explored fully and totally. All sides, facts and perspectives will be looked at.

Kate Fletcher said that Zoning Review is looking at all of the zoning by laws including the Cottage Era bylaw and they are taking this very seriously.

Ginger Schwartz said that Terry had requested written material from 37 Interlaken before they came in and asked if that material came in. Terry said that what came in was what was presented at the last presentation at the estate.

Denny Alsop wrote a letter to the Berkshire Eagle mentioning that the property is situated on top of an aquifer which is connected to Lake Averic water supply and a large development could impact the quality of the Town's drinking water.

Intersection at Red Lion Study - Discussion and vote:

Don moved that they place on the Special Town Meeting Warrant an article to authorize the Board of Selectmen to take from available funds a sum not to exceed 15,000 to have an updated study of the Town's Main Street - South St - Pine St intersection, to include all options for accident mitigation, congestion and traffic control, and taking into account the historic and aesthetic importance of that junction. Chuck seconded. Terry voted no. The motion passed.

Don said that Chief Fennelly reported that in 2017 there had been 10 motor vehicle crashes. Don said that he would like an updated study. Jay Bikofsky asked that they involve the State Department. Residents shared comments.

Terry said that he would vote in favor of the motion if the roundabout was eliminated from the study. Don and Chuck want to see what the possible options are and move forward from there.

Accountant Position - Committee charge, discussion and vote:

Don moved that the following be the charge of the "Finance Study Committee":

To review and update job descriptions; and solicit, review applications and recommend candidates of Town Accountant position to the Board of Selectmen ; and

To review existing collector and treasurer job descriptions and create a new combined position job description for presentation to Town Administrator and Treasurer.

David McCarthy said their original proposal was only looking at the Accountant position; get job descriptions, find out how other towns deal with Accountant position, meet with department heads, bring findings back to the Selectmen, and return in six weeks; by January 26th, with hours and job description to then go out for posting.

Chuck made a motion that the following be the charge of the "Finance Study Committee":

To review and update job descriptions; and solicit, review applications and recommend candidates of Town Accountant position to the Board of Selectmen. Don seconded, all were in favor.

Schedule for Jan 2018:

Meetings for January are: January 3rd at 9am, January 8th at 7pm, January 22nd, Special town Meeting at 6:30pm and January 31st at 9am.

Adjournment:

With no further business, Don made a motion to adjourn; Terry seconded; the vote was unanimous.