



LANCASTER SELECT BOARD
Regular Meeting Agenda – REVISED**
Prescott Building – Nashaway Room
Monday, June 6, 2022
6:00 P.M.

In accordance with the Open Meeting Law, please be advised that this meeting is being recorded and broadcast over Sterling-Lancaster Community TV

I. CALL TO ORDER

Chairman Jason Allison will call the meeting to Order at 6:00 P.M. in the Nashaway Meeting Room located on the second floor in the Prescott Building, 701 Main Street, Lancaster, MA 01523

This Meeting Will Also Be Held Virtually at:

Join Zoom Meeting

<https://us02web.zoom.us/j/82938443432>

Meeting ID: 829 3844 3432

One tap mobile

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Meeting ID: 829 3844 3432

Find your local number: <https://us02web.zoom.us/j/82938443432>

Residents Have the Ability to Ask Questions via ZOOM.

II. APPROVAL OF MEETING MINUTES

- Review and take action on Select Board's Meeting Minutes of April 20, 2022, and May 2, 2022 (*Tabled at Select Board Meeting on May 16, 2022*)
- Review and take action on the Select Board's Regular Meeting Minutes of May 16, 2022, and Special Meeting Minutes of May 23, 2022.

III. SCHEDULED APPEARANCES & PUBLIC HEARINGS

- PJ Keating Permit Peer Review Report*
 - Presentation - Comprehensive Environmental - Postponed to Select Board Meeting of June 15, 2022.

IV. BOARDS, COMMITTEES AND DEPARTMENTS REPORTS - NONE



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V. PUBLIC COMMENT PERIOD

Opportunity for the public to address their concerns, make comment and offer suggestions on operations or programs, except personnel matters. Complaints or criticism directed at staff, volunteers, or other officials shall not be permitted.

VI. TOWN ADMINISTRATOR REPORT-

- Background on Zoning Board of Appeals (ZBA) 5 year appointment background
- Update on the Government Study Committee*
- DRAFT Budget Calendar
- Town Response to Capital Group 40B Proposal, letter sent to MassHousing 5/26/22
- Other Departmental/Town Wide Updates

VII. ADMINISTRATION, BUDGET, AND POLICY (Vote may be taken)

1. Economic Development Committee - Review terms and assignments
2. Discuss date for joint Planning Board/Select Board meeting regarding appointment for open Planning Board seat.
3. Social Media policy update – Vote may be taken
4. Discussion and Motion on the following
 - a. Delegation of Personnel Authority to Town Administrator
 - b. Delegation of Contract Administration and Signatories to Town Administrator
5. Clarifying Vote: Select Board Member Stephen Kerrigan to serve two(2) year term on Lancaster's Affordable Housing Trust consistent with the Trust's Charter.
6. Discussion on Juneteenth Independence Day (June 19th)

VIII. APPOINTMENTS AND RESIGNATIONS

Annual Appointments (review and votes may be taken)

- **Memorial Day Committee** (Annual Appointment – term to expire 6/30/2023)
 - Barbara Foster
 - Donna Sanginario
 - Karen Shaw
 - Ann Fuller
 - Jennifer Lapen

Re-Appointments: (review and vote may be taken)

- **Agricultural Commission**
Eric Jakubowicz, Member, term to expire 6/30/25
- **Board of Appeals (ZBA)****
Frank Sullivan, Member, term to be determined. (Tabled from 5/16/22)
Dennis Hubbard, Associate Member, term to expire 6/30/25



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Appointments*

- **Historical Commission**
Martha Moore, Associate Member, term to expire 6/30/25
- **Nashua River Wild & Scenic River Stewardship Council**
Justin Smith, Member, term to expire 6/30/25

IX. LICENSES AND PERMITS (Vote may be taken)

- Application for Use of the Town Green/Gazebo – Friend of Thayer Memorial Library request use of the Town Green/Gazebo for their Music on the Green Concert Series, to be held every Wednesday from 5:30pm (Set-up) to 8:30pm, starting June 29, 2022 – August 3, 2022.*
- Application of License Theatrical Exhibitions, Public Shows, Public Amusements and Exhibitions of Every Description Held on Weekdays for Nashoba Rock & Brew at the Lancaster Fairgrounds, 318 Seven Bridge Road, on June 25, 2022, from 2pm-6pm. (Carr Foundation Fundraiser)
- Application for a Special (One Day) Liquor License – All Alcohol for Nashoba Rock & Brew (Carr Foundation Fundraiser) to be held at the Lancaster Fairgrounds 318 Seven Bridge Rd on June 25, 2022, from 2pm-6pm.

X. NEW BUSINESS *

**This item is included to acknowledge that there may be matters not reasonably anticipated by the Chair*

XI. COMMUNICATIONS

- Select Board's Special Meeting will be held on Monday, June 13, 2022, at 6:00pm in the Nashaway Room and via ZOOM (Hybrid).
- Select Board's Special Meeting will be held on Wednesday, June 15, 2022, at 6:00pm in the Nashaway Room and via ZOOM (Hybrid)
- Town Offices will be closed on Monday, June 20, 2022, in observance of Juneteenth Independence Day

XII. ADJOURNMENT

II. APPROVAL OF MEETING MINUTES



**LANCASTER SELECT BOARD
Regular Meeting Minutes
of April 20, 2022**

I. CALL TO ORDER

Chairman Jason Allison called the Regular Meeting of the Select Board to Order at 6:00 P.M. via ZOOM™, noting that the meeting was being recorded.

Join Zoom Meeting

<https://us02web.zoom.us/j/83117257017>

Meeting ID: 831 1725 7017

Roll call vote taken, Jason A. Allison, present, Jay M. Moody, present, and Alexandra W. Turner, present.

II. APPROVAL OF MEETING MINUTES

Mr. Moody moved to approve the Select Board meeting minutes of April 4, 2022. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

III. SCHEDULED APPEARANCES & PUBLIC HEARINGS - NONE

IV. BOARDS, COMMITTEES AND DEPARTMENTS REPORTS - NONE

V. PUBLIC COMMENTS - NONE

Opportunity for the public to address their concerns, make comment and offer suggestions on operations or programs, except personnel matters. Complaints or criticism directed at staff, volunteers, or other officials shall not be permitted.

Chairman Allison, speaking as a private citizen (Jason Allison, 343 Brockelman Road), announced that on Saturday, May 21, Lancaster's Unified Health and Performance Gym will hold their 4th Annual Five-K run/walk. This event supports not only the gym, but adaptive athlete scholarships, MA Special Olympics, Team Hoyt New England, and others. Mr. Allison offered a challenge to all Lancaster students; for any Lancaster student who fairly beats him in the race, he will wash their car or a family member's car.

Ms. Turner, speaking as Community Center Director rather than a member of the Select Board, notes that Lancaster will be celebrating Earth Day with tree plantings on May 15th. Additionally, the *Lancaster Land Trust is organizing this event* and the Town is supporting a town wide cleanup effort by providing a dumpster for trash picked up roadside. Residents can pick up yellow bags for this effort at the Community Center or the Library.

VI. TOWN ADMINISTRATOR REPORT

Interim Town Administrator Jeff Nutting reported that CEI, the engineering firm hired to do the peer review of PJ Keating should have a draft report no later than the end of May for review and discussion.

Also, the Commonwealth has advised the DPW that they would like to do some paving between now and the end of June from Clinton up to Bolton, sort of an overlay. They may also work on parts of Route 117 excluding the areas scheduled for major reconstruction. As we have more information it will be communicated. Mr. Moody asked if there is any more information on when the Route 70/Route 117 construction will be taking place. Mr. Nutting explained that they advertised for bids on March 26, so it is most likely to begin in late summer or early fall, noting that this is a two-year project.

Mr. Nutting advised the Board that the contract for the Electric Vehicle charging stations will be signed this week. After that the easement will be recorded and installation will begin. The Select Board office will coordinate with the school to ensure minimal disruption. Mr. Turner asked what will be charged for use of the EV charging stations; Mr. Nutting explained that fees will be up to the Select Board and that they will need to discuss this in the months to come.

VII. ADMINISTRATION, BUDGET, AND POLICY

1. Discussion on the legality of Town Staff to schedule a Public Hearing before the Planning Board on zoning bylaw amendments (Allison)

Chairman Allison read a prepared statement into the record:

On April 5, the Select Board formally submitted to the Planning Board proposed amendments to the Zoning Bylaw in accordance with Massachusetts General Law Chapter 40A, Section 5. The proposed amendments pertain to the adoption of a new Smart Growth Zoning Overlay District under Chapter 40R. The Planning Board is required to hold a public hearing within sixty-five days after a proposed zoning bylaw is submitted to it. Additionally, notice of this hearing must be published in the newspaper once in each of two successive weeks, the first publication to be not less than fourteen days before the hearing. Upon receipt of the Select Board's April 5 letter, Town staff prepared a hearing notice and caused the notice to be published in the newspaper.

The Planning Board Chair is now contesting the ability of Town staff to publish such notice without the express consent of the Planning Board or its Chair. I have conferred with Town Counsel and wish to clarify that Town staff did not violate any law by publishing the hearing

notice in the newspaper. The requirement to publish notice in the newspaper is controlled by Chapter 40A, Section 5, which does not preclude Town staff from independently causing notice of a hearing to be published.

Moreover, Town staff did not diverge from its ordinary hearing notice practice. Town staff commonly posts notice of hearings without conferring with the requisite public body or its chair to ensure that statutory timeframes are satisfied.

Lastly, it is worth noting that the Chair controls the Planning Board's meeting agenda. Publishing a hearing notice in the newspaper permits, but does not obligate, the Chair to add the matter to an upcoming meeting's agenda. That decision is, and has remained throughout this whole process, with the Chair.

The Planning Board Chair's statements questioning the legality of our staff's actions have no basis in the actual law, and are indefensible.

Ms. Turner said that she had spoken to Mr. Nutting about this as well as several members of the Planning Board. She stated that she has heard that the reason the Planning Board did not schedule a public hearing is that they felt that the settlement agreement needed to be discussed or fixed before the hearing. Continuing, she stated that in her understanding the Planning Board could do what they did although she did not believe it was in the best judgment.

Mr. Allison moved that the Board approve the above statement, and that it be placed on the Town website and a copy sent to the Planning Board. Mr. Moody seconded the motion. Ms. Turner expressed concern that this would just perpetuate the disagreement between boards. Mr. Allison stated that he thinks it is important that the Board state its position, in part to defend town employees who are accused of inappropriate actions. Ms. Turner stated that she thinks this fosters division.

Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Abstain. [2-0-1].

Next, Mr. Allison moved to have the Select Board find no wrong by Jeff Nutting and Town staff, pursuant to the complaint filed by Planning Board Chairman Russ Williston regarding the posting of Planning Board Public Hearings. Mr. Moody seconded.

Ms. Turner agreed that actions taken were not illegal, that staff did not do anything wrong, and that staff should be treated with respect.

Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].

Mr. Allison moved to forward the results of the Planning Board's Chairman's complaint to the Planning Board and ask the Planning Board to issue an apology to Jeff Nutting. He noted that in addition to Mr. Williston making this accusation in a private email, he also made the accusation in open session, where it was supported by the Planning Board. In speaking with Town Counsel, Mr. Allison has confirmed that this statement is not supported by law.

Ms. Turner said that she thinks the most productive way to handle this is to ask Counsel or perhaps the Attorney General's office for a simple written statement on how postings should work. She does not think there was any malicious intent on behalf of the Planning Board and that it should be a learning experience for all town boards.

Mr. Allison said that this is about how the Board wants to lead the staff, and that the accusation did not need to be made in open session. Ms. Turner stated, "Thank you Jason, for bringing it up and saying let's bring up a policy, make sure that our boards are aware of it, and of course we need to encourage people to act and speak in civil and proper terms. I believe that the Chair of the Planning Board honestly felt, and he's extremely well versed in our laws, certainly better than I am, but did not know that Jeff had the authority to ask Jasmin to do so. This was an unusual case, but this is something that we need to really take a bad situation and make lemonade."

Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Abstain. [2-0-1].

Next, Chairman Allison moved for the Select Board to send a letter to the Planning Board to request that in the future, they make no public accusations of Town staff without first allowing the Select Board to seek legal guidance to ensure that these types of situations do not happen again. Ms. Turner seconded the motion. Ms. Turner would like to amend the motion to allow the Planning Board to have access to Counsel, should they feel that the Select Board did something wrong. Mr. Allison said that he cannot support the amendment since Town Counsel costs about \$210 an hour. Ms. Turner said that in the past the Town Administrator served as the conduit to Town Counsel because frequently boards and committees may have redundant questions, or there may be a large issue affecting different boards and commissions. Mr. Moody would like the motion to apply to all boards and committees, rather than just the Planning Board. Mr. Allison amended his motion to reflect this request; Mr. Moody seconded.

Ms. Turner asked what happens when another board would like to speak to Counsel; it was agreed that any board could make this request to the Town Administrator.

Vote taken on the amendment, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].

Mr. Allison repeated the motion, for the Select Board to send a letter to all boards and committees requesting that in the future, no public accusations are made of Town staff without first allowing the Select Board to seek legal guidance.

Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].

Next, Chairman Allison moved for the Select Board to approve the public release of all correspondence, documentation, and voicemail, sent by Planning Board Chairman Russ Williston to Town staff regarding the posting of the 40R public hearing. Mr. Moody seconded.

Mr. Allison said that while he does not want this to be personal, and he does not want to pass judgment, he wants to make this information available to voting residents to let them decide, noting that there are threats to file a police report and threats to go to the Attorney General. Mr. Moody said that this would be public record anyway; Mr. Allison concurred. Ms. Turner noted

that while she understands that Mr. Allison wants to underline the seriousness of this issue, but does not think this motion is helpful. Discussion continued about public records requests with Mr. Nutting clarifying the usual process.

Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].

Mr. Allison moved for the Select Board to send a letter to the Planning Board reminding them that it is difficult to fill paid positions in Lancaster, especially the positions of Town Administrator and Planning Director, and reminding them that the Town has work to do to remove the stigma that Lancaster is not a desirable place to work. Mr. Moody seconded for discussion.

Mr. Moody would like to amend the motion to apply to all boards and committees. Ms. Turner objected to characterizing Lancaster as a bad place to work. Mr. Allison amended the motion to read, "for the Select Board to send a letter to all boards and committees, reminding them how difficult paid positions are to fill in town, especially the Town Administrator and Planning Director, and also remind them that this Town has work to do to remove the stigma that Lancaster is not a desirable place to work in." Mr. Moody seconded.

Vote taken on the amendment, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].

Vote taken on the motion, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Abstain. [2-0-1].

2. Discuss Planning Board Response to Select Board letter on having 40R Public Hearing (Allison)

Mr. Allison read into the record the letter that the Select Board sent to the Planning Board on April 5. Mr. Nutting stated that no response was received.

Ms. Turner said that there may be assumptions being made; perhaps the Planning Board did not realize that a response was required, or perhaps the response did not get through. She stated that a response would have to come from the Chair. Mr. Allison asked the Board what the plan was going into the Annual Town Meeting (ATM). Ms. Turner stated that we were not ready for the ATM in a number of areas. Because the Planning Board was meeting at the same time as this Select Board meeting, Ms. Turner suggested that Mr. Nutting could send Ms. Farinacci a note to ask if they intend to hold a public hearing.

Mr. Moody said that he also sits on the Housing Committee and stated that they had been told that there would be a hearing, that they did everything they should, and there still has not been a public hearing. Mr. Nutting advised that the Planning Board cancelled the second notice required by law to have the hearing on April 20; he suggested that the Select Board ask the Planning Board what date they plan to hold the public hearing.

Ms. Turner said that having personally spoken separately to five members of the Planning Board, they specifically told her that they did not respond to the request for a public hearing because they felt that the Select Board had “dropped the ball on the settlement agreement.” Discussion continued at length on this topic. Ms. Turner stated that the Planning Board was not taking action because the Select Board has not discussed the Settlement Agreement.

Mr. Allison moved to have the Select Board send another letter to the Planning Board asking for help and guidance on their plan for ensuring both the enterprise rezone and the 40R articles can be put in front of the residents to vote on. Ms. Turner seconded. Mr. Nutting noted that this is an open ended question and needs a “by when” date, after the Planning Board has met. Mr. Allison amended the motion to include asking for a response by April 28. Ms. Turner seconded.

Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].

3. Vote to Open the Annual Town Meeting Warrant

Ms. Turner moved to open the Annual Town Meeting warrant. Mr. Allison seconded.

At this point, Mr. Allison received an email from Jasmin Farinacci, Planning Director, with changes requested to the warrant from the Planning Board. Mr. Nutting explained that the only way this would be possible would be if Town Counsel were available to review the changes tomorrow morning so that the Warrant could be posted tomorrow afternoon.

4. Vote any changes in the Warrant deemed necessary and close the Warrant

Mr. Nutting explained that there were some typographical corrections to articles 5 and 7 in order to make the current warrant 100% accurate. The meeting is currently scheduled for May 2, so the Board needs to sign the Warrant by tomorrow (4/21/22).

At this point in the meeting, Mr. Allison received a new email from Planning Director Jasmin Farinacci, requesting the addition of an additional warrant article. Mr. Nutting noted that the only way possible to include this would be if Town Counsel could review and approve the article early tomorrow so that the Warrant could be posted later tomorrow.

Mr. Allison moved to add the article in question to the warrant. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Mr. Nutting requested that the Board vote on the aforementioned changes to Article 5. Ms. Turner moved to accept the changes as offered; Mr. Moody seconded. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Mr. Nutting requested that the Board vote on the aforementioned changes to Article 5. Mr. Allison moved to accept the changes as offered; Mr. Moody seconded. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Mr. Nutting reminded the Board that all articles presented can be approved at the ATM by majority vote except for zoning changes which require a 2/3 vote. An exception to this is housing, which under new law requires a majority vote. He also advised that the Finance Committee has endorsed the budget recommendations.

Mr. Nutting advised that the Town Meeting will not be allowed to vote on the 40R article because there has been no public hearing. Mr. Allison stated that he believes that the enterprise zone should not be voted on without the 40R article, and that he is disappointed that the opportunity for the citizens to vote on these articles because of Planning Board choices and actions.

Some discussion was held on changing the date of the ATM to make these two articles available, but it was determined that this was not possible.

Mr. Allison moved to remove Articles 14, 15, 16, and the new "Scriveners" article from the Annual Town Meeting Warrant with the intention of having a Special Town Meeting with all the zoning articles at a future date to allow the Planning Board to do due diligence to allow all articles to come before the Town. Ms. Turner seconded.

Ms. Turner asked the status of the MOU and if it will be voted on at Town Meeting. Mr. Allison explained that the MOU is an agreement between the developer and the Town, and will be part of the packet of information for the voters at Town Meeting.

Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].

Ms. Turner moved to close the Annual Town Meeting Warrant. Mr. Moody seconded. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].*

5. Continue discussion on time and place for the Annual Town Meeting

Mr. Nutting sent the Board a memo showing that 99 of 100 communities in Massachusetts will be holding their Annual Town Meetings indoors. Mr. Moody agreed that without the zoning articles, attendance will be less, so thinks it will be okay to hold the meeting indoors, although he would like the Special Town Meeting about zoning to be held outside. Mr. Allison concurs, and mentioned that several residents have mentioned that babysitting at town meeting would be helpful. Mr. Nutting noted that if the Annual Town Meeting is to be held indoors, no action is needed, but cautioned the Board that if babysitting were offered, everyone involved would need to be CORI checked.

Mr. Allison asked Mr. Nutting to send a letter to the Planning Board explaining the plans for the ATM and the Special Town Meeting. After discussion, Mr. Nutting will talk to Ms. Farinacci and ask her to communicate to the Planning Board.

6. Land Settlement Agreement (Turner)

Ms. Turner would like to discuss this because there is a great deal of misinformation about this topic. She stated, "I think I explained that I do not believe that the land settlement agreement should be the elephant in the room. When we're discussing zoning articles it's an independent discussion, but it does influence the credibility of the partners that we're negotiating with and people's faith in them. So, because we all recognize this as a problem, or at least I think that we do I think we need (unheard) this. In the last year, since I was elected, we have tried to do that as a board. We have asked multiple times for updates and discussions about the land settlement agreement. I know that one of the proposed solutions is to deal with this through that memorandum of understanding and the MOU/MOA Committee, and it's a bona fide way to deal with this. People still need to understand how we got here, so we learn from history as to where we go. The Reader's Digest version, for people who don't understand what the settlement agreement is to say there were parcels of land, that the Town was in Land Court with Mr. Boucher. The Selectmen at the time decided to enter into a settlement agreement rather than continue the litigation and to go forward. People call it a land swap; it wasn't really a land swap per se. We allowed Mr. Boucher to pay off back taxes and forgave the mining of large parcel of land that the town owned. In exchange, we were getting some environmentally sensitive land and trail easements. The Selectmen at the time told Counsel to transfer the land with the mineral rights on it and the sand, and we waited for the conservation land and the trail easements to be made. None of us were on the Board at that time, but we did extend the settlement agreement to allow for Steve Boucher and now the Capital Group to finish the agreement. That didn't happen. I think anybody who's watched their meetings know that we asked about it, we were told that there were title issues. We were told, we could obtain title issue, we were told we were all set to close numerous times. As a board, I believe we acted in good faith expecting this to try to happen. Many citizens asked us about it and it came right down to the wire and nothing happened. I spoke with Attorney Eichmann, and he explained, he was working on behalf of Kopelman and Page at the time, he explained that they had, what I just stated, that the Town had turned land over to Steve Boucher and that the title issues were supposed to have happened shortly thereafter. Apparently if we chose to pursue it, we could, legally, but (illegible) the question that we have to ask ourselves as a Board is if it is worth the legal costs to do so. We didn't have that that opportunity. This isn't a critique of past boards. Personally, I have come out publicly, I did not like the settlement agreement. I think we gave land of high value in exchange for land of low value, which we didn't get. I understand why there is a concern because people say if you didn't perfect one agreement, why can we expect to perform another agreement. I'm confident what I will look for in the Memorandum of Understanding and the MOU is that not only do we have restored this, but that there is legal recourse to be able to make sure that we don't have to go back to court to fight to perfect something. And that there is, and that we don't bear the burden of those legal costs, because one of the things that we've talked about now repeatedly is (whether) it is worth going back to get this agreement completed. I think if we haven't talked to why we haven't talked it out about it at the Board. I've listened to Chairman Allison and Jay and people, hoping that we could find an easier way through the MOU and MOA process to do that, than through the legal process. So, in a nutshell, I wanted people to understand what the settlement agreement was about, and how we got to where we're at right now. That's a very abbreviated version. We are talking about a lot of land and the mineral rights alone on the people's land was worth millions of dollars. So this is something that I'm really disappointed that the town didn't do better. It's a

collection of problems and issues and I'm hoping that we as a board can find a way, whether it be through your MOU/MOA -- Jason I say yours, I know it's the people's agreement, but obviously you're spearheading it or through others, and I have to admit it gives me a lot of trepidation about entering into an agreement if we don't have something very, very strict, to be able to enforce it. So that's my Reader's Digest version."

Mr. Nutting recommended, now that the Board has additional time because the zoning articles will not be presented at the ATM, that all parties invite the town attorney negotiating the MOU/MOA to the public hearing or to some meeting and open it up to questions way before the Town Meeting. Mr. Moody voiced his agreement.

Mr. Allison stated that the idea that the developer was or wasn't trustworthy should not be part of the discussion. The MOU/MOA will be an enforceable agreement that will work for all parties. Secondly, pursuing legal action could result in the Town both losing the land in question and running up enormous legal bills.

Ms. Turner noted that the 86 acres in question is environmentally sensitive, and the settlement agreement contained trail easements that the Conservation Commission advocated strongly for. She stated that the Town gave up millions of dollars in mineral rights to enable economic development. She continued, saying that she has seen MEPA filings and MEPA letters indicating that the land from the settlement agreement being discussed in the MOU/MOA is being used once again as the open space and trail easement offset, and she wants to make sure that this is not being a "double credit." She would like some provision in the MOU/MOA for indemnification. Lengthy conversation continued, with Mr. Allison stating that he disagreed with Ms. Turner's analysis of the situation and that the Board will have plenty of time to review the completed MOU/MOA.

Ms. Turner would like to see a "fact sheet" produced prior to the Special Town Meeting. It was agreed that there is not enough lead time to send any kind of information to residents before the Annual Town Meeting.

7. Select Board's Recommendations for Budget and Capital Plan

Mr. Nutting had provided the Board with a copy of the budget at the last meeting. He asked the Board if it were a tradition for the Select Board to support a specific budget or recommend one at the ATM. The Finance Committee has endorsed the budget and had a split vote on the Capital Plan.

Ms. Turner noted that there was some budget expansion and growth, although a directive was given to town boards and committees that they were to prepare level service budgets. She thinks that if some departments did not submit level funded budgets, then other departments should have been given the opportunity to do so.

Mr. Nutting replied that many of the changes were about properly funding items rather than level funding. He stated that in the past items such as property and casualty insurance as well as the legal budget, had been greatly under-funded. He stated that the only real expansion was in the Fire Department, adding a part-time administrative person, and that other changes were minimal.

Ms. Turner reiterated that other departments like the DPW or the Police Department might really need additional help but didn't ask for it. She would like the Select Board, in the future, to be more involved with the School Department budget, stating that in the past it was more of a cooperative effort, with input from all three towns. She would also like to explore the Minuteman Vocational School budget, stating that they have limited the number of students accepted, making it difficult for some Lancaster students to attend.

Mr. Allison would like the Select Board to act on endorsing the budget at the meeting prior to the ATM. Mr. Nutting will add this to the agenda.

8. National Grid Easement for 103 Hollywood Drive

Mr. Nutting explained that the easement for National Grid to install the EV Charging stations was approved at Special Town Meeting, and that the next step is for the Board to vote and sign the contract/agreement.

Ms. Turner moved to grant the easement to National Grid at 103 Hollywood Drive for the purpose of the EV Chargers. Mr. Moody seconded. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].*

9. Dissolve Memorial School Committee until area is back to previous zoned designation (Moody)

Mr. Moody explained that there is nothing for the committee to do at this point. Mr. Allison asked if it was in the hands of Town Counsel. Ms. Turner would like the committee to meet and come back with suggestions, and would like to find out where it stands legally per Chapter 97 restrictions.

Mr. Nutting explained that he has forwarded this as an action item for the new Town Administrator, stating that there needs to be an overall plan. Mr. Allison stated that this would be tabled to a future meeting.

10. Safety cameras for public buildings (Moody)

Mr. Moody brought this up again, introducing Police Chief Moody to speak to the issue. Mr. Nutting noted that he had suggested \$75,000 from ARPA money for cameras but the Board had wanted to wait. He suggested that Chief Moody and the IT Director could gather costs. Mr. Nutting suggested including all the buildings on the Town Common. Mr. Nutting said that he would like to work with the Chief to call some vendors, noting that some buildings would be external only, unlike the Police Department or schools. He stated that it would be most sensible to have one system overall to get the best bang for the buck.

Mr. Allison moved to authorize Chief Moody and the IT staff to do due diligence and investigate for future upgrades to the video surveillance cameras. Mr. Moody seconded.

Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].

11. Request to get quotes for the generator for the Lancaster Community Center (LCC) (Moody)

Mr. Moody reported that Fire Chief Hanson has been having residents sign up for emergency needs if there is a problem in Town. Mr. Moody would like to at least see a price on what a generator would cost for the Community Center. Mr. Nutting will get some pricing.

12. Economic Development Committee (Turner)

Ms. Turner reported that she had invited the Chairman of the Economic Development Committee to attend to speak about their work, but he is unable to attend tonight, so she asks that the topic be tabled to another meeting. Mr. Allison asked that going forward, if a Board member would like somebody to appear before the Board, to please advise so that it is placed on the agenda.

VIII. APPOINTMENTS AND RESIGNATIONS - NONE

Appointments

Agricultural Commission – Stephen A. Mudgett as member, term to expire 6/30/2024

Chairman Allison recognized applicant Stephen Mudgett. Ms. Turner asked the applicant what he hopes to do on the Agricultural Commission and if he had any questions. Mr. Mudgett replied that he has been involved with other boards in town and as a 4th generation Lancaster farmer he thought this would be a good fit. He has no particular goals but will get involved and see what's happening, hopefully adding some insight and helpfulness and trying to keep agriculture in the Town of Lancaster as long as possible. The other two Board members thanked Mr. Mudgett for having to sit through this lengthy meeting and for volunteering. Ms. Turner offered a motion to appoint Stephen A. Mudgett as a member of the Agricultural Commission, term to expire 6/30/2024. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].*

IX. LICENSES AND PERMITS - NONE

X. OTHER/UNFINISHED BUSINESS

XI. NEW BUSINESS

**This item is included to acknowledge that there may be matters not reasonable anticipated by the Chair.*

Mr. Moody wanted information on how trees are planted on the Common. Ms. Turner explained that trees were planted to celebrate Earth Day, and she has spoken extensively with Heather Lennon of the Historical Commission. The Commission has a vision for how they would like to

see tree planting. Mr. Nutting stated that the Select Board oversees the land and should have a protocol for planting. Ms. Turner has called Dig Safe to ensure that there were no issues with Earth Day plantings. Mr. Moody thinks there should be a policy so that every time somebody wants to plant a tree they're going to put it up. Ms. Turner explained that for Earth Day they will be planting a hybrid elm. Mr. Nutting noted that the budget includes some money for the DPW to plant trees. Ms. Turner volunteered to draft a policy for the next meeting. Mr. Nutting suggested that at the next meeting the Select Board vote on the specific tree for Earth Day.

XII. COMMUNICATIONS

- The next meeting of the Select Board will be on Monday, May 2, 2022.
- Annual Town Meeting scheduled for Monday, May 2, 2022, beginning at 7:00 pm
- Annual Town Election will be held on Monday, May 9, 2022, from 7am-8pm at the Town Hall Auditorium, located at 695 Main Street

XIII. ADJOURNMENT

Mr. Moody moved to adjourn the meeting. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Respectfully submitted

Kathleen Rocco
Executive Assistant

Jay M. Moody, Clerk
Approved and accepted:



LANCASTER SELECT BOARD
Meeting Minutes
Mary Rowlandson Elementary School Auditorium
Monday, May 2, 2022
6:00 p.m.

I. CALL TO ORDER

Chairman Jason Allison called the meeting to order at the Mary Rowlandson Elementary School Auditorium at 6:00 p.m. on May 2, 2022. A roll call vote was taken, Jason Allison, present; Jay M. Moody, present; Alexandra W. Turner, present. Also present were Town Administrator Kate Hodges and former Interim Town Administrator Jeff Nutting.

II. ADMINISTRATION, BUDGET, AND POLICY

1. Review & Adopt Administrative Policies

a. AP #TBD: Use of Town Counsel

Ms. Hodges sent a memo to the Board recommending that an Administrative Policy be enacted that requests to speak to Town Counsel go through the Town Administrator or the Select Board for approval. It was noted that anyone can contact Counsel regarding Ethics issues or in an emergency. This should help to alleviate some of the Town's growing legal costs. Mr. Allison moved to adopt the policy; Ms. Turner seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

2. Amend oversight and reporting authority for Interim Human Resource Director from Select Board to Town Administrator

Mr. Allison moved to change the reporting authority for the Interim Human Resources Director from the Select Board to the Town Administrator. Ms. Turner seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

3. Review Response from Planning Board regarding N. Lancaster Opportunity

No response to letters from the Select Board has been received from the Planning Board. Ms. Turner noted that Mr. Mirabito, a Planning Board member, was present and could speak to the issue. Mr. Allison stated that the Select Board needed to hear from the Planning Board, not from individual members. Correspondence went to all members of the Planning Board prior to the Planning Board Chairman's last meeting although his has

resigned. Ms. Turner suggested attending the next Planning Board meeting to ask them directly about their intent to hold Public Hearing(s) regarding the North Lancaster opportunity. Mr. Allison asked Ms. Turner if she would be willing to do this, and she agreed to attend the next Planning Board meeting to ask them what the plan is for allowing residents to vote on the North Lancaster opportunity. She will report back to the Select Board.

4. **Select Board to refer proposed zoning map and bylaw amendments to the Planning Board pursuant to MGL c.40A, §5 - Rezoning those portions of the parcel identified as Assessors' Map 8, Lot 45 located within the Residential District, to the Enterprise District, such that the entirety of said parcel is located within the Enterprise District**

*

Ms. Hodges reported that the Town has received the official application for permit eligibility from the Capital Group to Mass. Housing for the 40B. The Town has 30 days to respond. Ms. Hodges proposes to release this document as soon as tomorrow on both the Town website and the Town's new social media platform so that residents can review and submit comments. Resident comments should be received by Thursday, May 17, at 10:00 a.m. This will allow Ms. Hodges a week to compile. She requests that the Select Board hold a Special Meeting on May 23 to review the comments received, in a live or hybrid session so that people can participate. Ms. Hodges will then have a couple of days to refine the letter and return it to Mass. Housing by the 28th.

Mr. Allison moved to approve placement on the website and the new Facebook page, the received 40B application from the Capital Group. Mr. Moody seconded.

Ms. Turner questioned the use of social media, referring Ms. Hodges to the Town's social media policy, although in the interest of time she supports the use of Facebook. Ms. Hodges explained that she has reviewed the last three years of Select Board minutes and has found no items dealing with social media policy. She stated that she has found a policy that does not appear to ever have been enacted. Mr. Moody asked who will maintain the Facebook page. Ms. Hodges answered that the duties will be shared between herself and the Assistant Town Clerk, and that it will currently include only official documents and notifications from the Town, such as road closures and meeting notifications. Ms. Turner noted that there are currently several official Town Facebook pages, including pages from the DPW and the Community Center. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

The purpose of this agenda item is to regroup from the initial Public Hearing for the Enterprise / Back-Half rezone. Once a public hearing occurs, there is a six month term to get the issue on the Warrant. In this case the public hearing happened sometime in January. We are at risk of not being able to have the 40R and the Enterprise Rezone on the warrant at the same time. If we are targeting September for a Zoning Special Town Meeting, we are required to do this, to refer back to the Planning Board to have another public hearing so the two related items can be addressed together. Mr. Allison moved to refer proposed zoning map and bylaw amendments to the Planning Board pursuant to

MGL c.40A, §5 - Rezoning those portions of the parcel identified as Assessors' Map 8, Lot 45 located within the Residential District, to the Enterprise District, such that the entirety of said parcel is located within the Enterprise District. Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

(Out of order; in the interest of time, the Board addressed item 6 prior to item 5)

5. Take Positions on Town Meeting Warrant Articles

a. Town Operating Budget (Article 1)

Mr. Allison moved to support the Town Operating Budget. Ms. Turner seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

b. FY23 Capital Expenses (Article 2)

Ms. Turner stated that the Conservation Commission has leftover money in the FY22 budget because they did not have a Conservation Agent for part of the year, and that they are willing to use this money to do the remediation work rather than asking for approval of a capital expense. Mr. Nutting explained that FY22 payroll money cannot be used for this.

Ms. Turner asked is if it made sense to support an architectural study of the library, when this would undoubtedly result in a future large price tag once the scope of work needed is determined, considering the projected difficult financial year expected next year. Mr. Nutting noted that if you look at the debt schedule over the next five years, it declines by about \$750,000, so that there will be internal debt capacity to handle this. Ms. Turner asked if this money would be needed for a new school; Mr. Nutting replied that a new school was at least four years away.

Mr. Allison moved to support Article 2. Ms. Turner seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

c. Article 3 – Water Enterprise Fund / Annual Budget

Ms. Turner noted that the Water Department, per bylaw, should submit a plan every year to the Select Board, and this should be included in the future. Mr. Allison moved to support Article 3; Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

d. Article 4 – Water Enterprise / Design for new water lines

It was clarified that the Water Enterprise Fund will pay for the design. Mr. Allison moved to support Article 4; Ms. Turner seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

e. Article 5 – Renewable Energy Enterprise Fund

Mr. Allison moved to support Article 5; Mr. Moody seconded. Ms. Turner asked if we were done with the debt schedule for this; Mr. Nutting said no, not for about 20 years more. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

f. Article 6 – Revolving Fund Account

Mr. Allison moved to support Article 6; Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

g. Article 7 – Community Preservation Annual Budget

Ms. Hodges noted that this article presents the minimum budget required by statute. Mr. Allison moved to support Article 7; Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

h. Article 8 – Amend Finance Committee Bylaw

Mr. Allison moved to support Article 8; Ms. Turner seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

i. Article 9 – Economic Development Committee Bylaw

Ms. Hodges noted that an error was caught today, and that Town Meeting needs to amend the motion for this article to match as printed in the handout, not as printed in the Warrant. Mr. Allison moved to support Article 9; Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

j. Article 10 – Amend Council on Aging Bylaw

Mr. Allison moved to support Article 10; Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Abstain; Jason Allison, Aye. [2-0-1].*

k. Article 11 – Government Study Committee

Mr. Allison moved to support Article 11; Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

l. Article 12 – 2% Increase for Non-Union Wages

It was noted that this should be done annually. Ms. Turner moved to support Article 12; Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Abstain; Jason Allison, Aye. [2-0-1].*

m. Article 13 – Discontinue Old Lunenburg Road

Mr. Allison moved to support Article 13; Mr. Moody seconded. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, Aye; Jason Allison, Aye. [3-0-0].*

n. Article 14, Citizens Petition, was not addressed.

(Out of order; in the interest of time, the Board addressed item 6 prior to item 5)

6. **Discuss & replace one member of Lancaster Ad Hoc MOU Committee due to member voluntary resignation mid-term.**

The Chairman of the Planning Board, Russ Williston, also served on the MOU/MOA Ad hoc Committee. Because he has resigned from the Planning Board, this also creates an opening on the MOU/MOA Ad hoc Committee. Mr. Allison moved to fill this open seat

by advertising for 30 days for any Lancaster resident to apply, for the Select Board to review applications and make an appointment. Ms. Turner seconded for discussion; her thoughts are that the opening should be referred back to the Planning Board to have them fill the opening so that they have a seat at the table. Mr. Moody noted that a Planning Board member could certainly apply for the opening along with any other resident. *Vote taken, Jay M. Moody, Aye; Alexandra W. Turner, No; Jason Allison, Aye. [2-1-0].*

III. OPERATIONS & DEPARTMENT MATTERS

1. Review & Discuss Trees on Town Common Issue

Mr. Nutting opened, saying that there was no current plan to plant or remove trees on the Town Common, and that the Select Board would need to approve. Ms. Hodges brought up the implications of MGL 30B because the Common is public land (Mass. Procurement/ need to formally accept gifts). Ms. Turner said that the Community Center planned to plant a large elm tree for Earth Day in memory of Shirley Griffin, and that the tree was donated by the Land Trust and the Friends of the Seniors. The tree will be placed next to the "Lancaster" sign at the Old Town Hall, not on the Common, and there are also plans to replace the Thayer lilacs in memory of Marie Espinola, along the handicapped ramp. Ms. Hodges explained that memorials on Town property have their own set of rules, and it must be determined if a memorial planting is named in perpetuity, and if the tree or plant dies is there is an obligation to replace it. It was determined that because process was not determined or followed, the current planting plans must be delayed.

IV. CORRESPONDANCE & NOTICES

1. Open Meeting Law Complaint dated April 16, 2022, from Mr. Patrick Higgins, PO Box 290, Northport, Alabama 35476 alleging wrongdoing by members of the Select Board

Mr. Allison thanked Mr. Higgins, who apparently watches out for the Select Boards in many towns, for helping to make Lancaster a better town.

V. ADJOURNMENT

Mr. Moody moved to adjourn the meeting. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Jay M. Moody, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Respectfully submitted

Kathleen Rocco
Executive Assistant

Jay M. Moody, Clerk
Approved and accepted:



LANCASTER SELECT BOARD
Meeting Minutes
of May 16, 2022

| |
|-------------------------|
| I. CALL TO ORDER |
|-------------------------|

Chairman Jason Allison called the Regular Meeting of the Select Board to Order at 6:00 P.M. via ZOOM™, noting that the meeting was being recorded.

Join Zoom Meeting

<https://us02web.zoom.us/j/82236648171>

Meeting ID: 822 3664 8171

Roll call vote taken, Jason A. Allison, present, Stephen J. Kerrigan, present, and Alexandra W. Turner, present.

The Select Board thanked former Board member Jay Moody for his service and welcomed new Board member Steve Kerrigan.

| |
|--|
| II. APPROVAL OF MEETING MINUTES |
|--|

Mr. Allison moved to approve the Select Board meeting minutes of April 20, 2022 and meeting minutes of May 2, 2022. Ms. Turner seconded.

Ms. Turner stated that she has some changes; in the April 20 minutes, page 2 at the top, Ms. Turner had noted that the Land Trust should be recognized as the organizer of the Town Cleanup for Earth Day. Next, on page 3, fifth paragraph, Ms. Turner objected to the word 'legally.' Next, on page 12, Ms. Turner stated that there was an amendment offered by Mr. Moody reminding boards and committees that they could seek Counsel's help; Ms. Turner has written out this amendment and will provide it to the Town Administrator.

Mr. Allison suggested tabling the motion; he remembers some things differently and would like to have an opportunity to review the video. Mr. Allison moved to table the previous motion. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Abstain; Alexandra W. Turner, Aye. Approved, [2-0-1].*

III. TOWN ADMINISTRATOR'S REPORT

- **Overview of new Social Media handle/platform for official Town business**

Ms. Hodges, Town Administrator, announced that there is now officially Town of Lancaster social media presence in order to provide information to residents easily and on multiple platforms. There is a Facebook page, a LinkedIn profile, and an Instagram account. She will concentrate for now on adding the most critical information, and in the future will ask the Select Board to talk about how social media maintenance could fit into existing staffing levels.

- **DRAFT Social Media Policy outline**

Ms. Hodges has drafted a social media policy, distributed it to department heads, and is collecting feedback.

- **Comments and feedback received regarding Capital Group 40B Application to MassHousing. See memo to Residents and Boards/Committees from Town Administrator Kate Hodges, dated Tuesday, May 3, 2022.**

Ms. Hodges recapped that the Board sent and published a memo to citizens, boards, and committees on May 3, requestion feedback on the Capital Group's 40B application sent to MassHousing. The deadline for comments was last Friday. 36 individuals and several committees provided written responses. Ms. Hodges is now compiling the responses and will issue a memo summarizing the responses in advance of the May 23 meeting.

Ms. Hodges mentioned the FY22 Spending Freeze and the formation of the Governance Study Committee; both topics are expanded upon later in the meeting.

IV. SCHEDULED APPEARANCES & PUBLIC HEARINGS - NONE

V. PUBLIC COMMENT PERIOD

Opportunity for the public to address their concerns, make comment and offer suggestions on operations or programs, except personnel matters. Complaints or criticism directed at staff, volunteers, or other officials shall not be permitted.

Mr. Allison recognized Carol Jackson, 40 Farnsworth Way.

Ms. Jackson stated, *"Speaking as a resident, I noticed on your agenda you have Frank Sullivan to be reappointed for five years. That position was not posted and his term is not up until June 30, and it's very concerning that his is up and there's another member that has the same term length, expires June 30, and his name's not there to be reappointed and also in the Select Board's policies it says in no case shall appointments be made for more than three years unless specifically allowed by Town Bylaw or state statute, and in the Town Bylaw or the state statute*

five years is not there, so that's concerning as well. So I'd like to know why there was a reappointment scheduled for to day when it wasn't posted and why it's five years. Thank you."

Mr. Allison recognized Rebecca Young Jones, 94 Barnes Court.

Ms. Young-Jones reviewed the highlights of a letter she had sent to The Item. She asks Lancasterians to ponder six things, noting that the entire letter could be read in The Item. Her points included: 1. The Capital Group has stated that there is \$4 million in taxes that will come from their big warehouse; Ms. Young Jones would like a "reality check" on this number. 2. Environmental issues of North Lancaster development, stating that the development will be in the Nashua River watershed. 3. The 40R is a great idea, but it would be in an environment justice area. She stated, "We have a bunch of different issues that need to be addressed, right now, so that will make it worse, especially with the trucks. We pushed back for a couple of years now and gotten some better proposals from Capital Group, so it would be nice if we could push back a little bit more, and maybe get a better proposal than this large warehouse. And then, finally, how are we going to work with Capital Group. The recent application for the 40B development seems to be a stick, not a carrot, and we still don't have the transfer of the 86 acres achieved."

Mr. Allison recognized Roy Mirabito, 944 George Hill Road.

Mr. Mirabito stated that he was speaking as a private resident, saying, "There are those in town of the opinion that we must get the residential to enterprise and 40R smart growth zoning articles to a popular vote as soon as possible. I agree with this viewpoint, but the zoning changes need to be addressed with two conditions. This process must be conducted respecting the elected boards of Lancaster and their authority and the laws of Massachusetts. and two, the citizens of Lancaster need full disclosure on the following issues and need to understand the completed memos of understanding between the town and developer. Anything less constitutes a lack of respect for the residents of Lancaster. My issues are as follows. One, why has the Select Board stated they have no appetite to discuss the 86 acres owed to Lancaster under the 2017 land agreement, and no appetite to litigate the same issue, prior to commencing negotiations with the developer. Conceding the prospect of litigation at this point, gives a green light to the developer to play hardball with this, and a variety of other issues, such as financial contribution to the town. Number two, how do we ignore and allow the area of critical environmental concern to be turned into huge warehouses, parking lots, and a wastewater treatment facility? Number three, how do we ignore our own traffic peer review study which predicts the level of service, of six of the seven major related intersections, will degrade to unsatisfactory levels. Number four - how do we ignore the related negative air and water health impact on our existing and proposed neighborhoods? And our children playing soccer next the industrial complex; do we not value the health of our children? Is this an appropriate site for our new neighbors, having a junkyard, a wastewater treatment facility, and 2.4 million square feet of distribution center as neighbors? The environmental justice concerns seem to have fallen upon deaf ears. Why has the developer not yet completed a MEPA application and review to reveal the state's opinion on these same issues? Seven, how can the Planning Board schedule a public hearing for the 40R zoning article when the proposed zoning change has yet to receive a preliminary certificate of eligibility from the Department of Housing and Community development? This is a requirement needed to hold such a hearing. According to a conversation with Bill (Rheault??) of DHCD on May 10, this certificate

may be available by May 28. Not having this document in hand precludes the Planning Board from holding a public hearing and from being voted on at Town Meeting, so a May 2 vote at our Annual Town Meeting was a false ambition. Today we're being thrust forward to satisfy the immediate financial desires and subsidized housing goals of the Town. One thing that has not been taken into account, the most important group in Lancaster, and that is you and I. Zoning articles are critical to the future of our town. I ask the voters of Lancaster to obtain answers to the above questions. If not answered satisfactorily before being voted on, I feel the Lancaster we've all known and loved will become a memory, thank you.

Mr. Allison recognized Rob Zidek, 103 Kaleva Road.

Mr. Zidek followed up on Ms. Young-Jones letter. He stated, "I offer insights and advice when the environmental or EJ topic that she addressed. Our state and federal EJ policies were established and are enforced around two unconditional requirements. meaningful involvement and fair treatment. Here is how they apply to us. Meaningful involvement requires the residents of communities with EJ concerns to be actively involved in all activities, hearings etc., pertaining to any development that could adversely affect them. But how do we involve people who don't live here? Again, the simple answer is advocacy. Goodrich Brook Estates is a very good example of that. EJ policy violations is one of the more convincing reasons by citizens of Lancaster in litigation trying to stop that 40B project. And McGovern Boulevard 40R and 40B are bad examples of meaningful involvement. For the past year and continuing today many points have been made about McGovern Boulevard 40R project, the extra money getting back to safe harbor that listening Capital Group website. But if we listen back to those meetings we hear very little in terms of advocacy for the beneficiaries of the 40R Program. Exceptions are numerous comments from the public. Sadly, those comments have elicited very few responses and zero action. Sdo Lancaster fails a meaningful involvement requirement for now. You, the Select Board, the Planning Board, the LAHT, can start making the necessary course corrections to establish and nourish that advocacy. Fair treatment requires that there be no disproportionate impact to the residents of communities with EJ concerns from the adverse consequences of a new and existing or in our case, a concurrently developed business. If a development affects all residents in an area equally, even if it's an undesirable impact, it is considered fair treatment from the EJ point of view. But if the Community with EJ concerns has to bear impacts that have very little or no effect on the rest of neighborhoods, and that is, by definition, unfair treatment. With the proposed 40R and 40B, the McGovern Boulevard traffic congestion, the noise, the poor air quality, will undeniably affect our new neighbors a lot more than they will the rest of us which isn't good for us either, but it's a lot worse for our new neighbors, and the clincher is pedestrian safety. The affordable housing residents, whether they drive, whether they walk, they motorcycle, they jog, they bicycle, they go get a coffee, they cross over to get an ice cream, there is very high risk of injury or death from all those trucks and employees' cars is 100% borne by the residents and virtually none by the rest of us, so we fail the fair treatment test as well. In summary, what Capital Group and this town are actively pursuing are attempting to contractually oblige each other and our vigorously campaigning to get unsuspecting voters to buy into is the very situation that our EJ policies were established to prevent.There is no way MEPA will ever approve either one and we should not wait for that failure to happen when it's fully within our and your capability to stop it before it ever evolves. Please take this seriously, remember that you represent

all residents, present and future. Don't ignore our new neighbors because you think they're not here, they are here and you just heard from them. Thank you.

Mr. Allison recognized Dee Hurley (address)

Ms. Hurley thanked the voters who voted for her write-in campaign for the Board of Health position. Additionally, she is the President of the Friends of the Lancaster seniors. She invited the public to attend the Friends' meeting Friday at 10:30 at the Community Center. Secondly, the Friends have an event coming up, a concert at the Cornerstone Horse Ranch in Princeton. More information is available on their website.

Mr. Allison recognized Martha Moore, 131 Center Bridge Road.

Ms. Moore stated that she completely agrees with previous speakers. One of the things that bother her are that we don't know who holds title to a lot of parcels. She said, "I know there's a settlement agreement in disagreement around that, but there's also a lot of the other smaller parcels which we saw on the map one night a couple months ago, and they are not owned by Capital, they are not owned by 702 LLC or Lancaster LLC, they are owned by what we saw was individual names. When I asked this question of Capital, as Capital sent a representative to our Historical Commission meeting, when we had set it up to discuss the 40B per Kate's request to the folks in town, I asked the Capital Group why they didn't own all these individual parcels. They said they have deals pending, options pending, and that just seems a little risky business to me. I don't feel that I'm sure that all the studies that were done the traffic study, the environmental study, the fiscal impact, were really done with an objective eye. It didn't seem quite that way, especially when people in the audience were calling out and correcting a lot of the figures that Capital had provided, or rather the person that did the study. So I'm concerned about that and due to the size of this development, I would hope that, rather than negotiating with a developer, we would be working with a partner. And I don't see that happening here. We've got threats, we've got all types of things for that but there really isn't a true partnership. So that's the negative side as well, and I can't express enough the worry, the concern that I have, because once it's gone and can I just say and I'm sure I'm going to get flack for this, but this is ringing of the what looks to me like that cartoon character Black cat during the 40's or something ringing that bell, putting it in our face, is really disrespectful, and I just have to say that Jason. I can understand, but it just feels very disrespectful to me. Thank you."

VI. ADMINISTRATION, BUDGET, AND POLICY

1. Reorganization of the Select Board

Mr. Kerrigan said that as the "new guy" his preference would be to stick with the current arrangement, with Mr. Allison as Chair and Ms. Turner as Clerk. For the purpose of discussion, Mr. Kerrigan moved to appoint Mr. Allison as Chair and Ms. Turner as Clerk. Mr. Allison seconded.

Ms. Turner, noting that she has worked with Mr. Kerrigan in the past, said that he ran a vigorous campaign based on unity, that he is an excellent orator, and that she had planned on

nominating him as Chair. She stated, “you’ve done a great job Jason, in many ways, but the focus of the, MOU, which I assume you don’t want to continue.” Ms. Turner stated that there had been much dissention in the past year; Mr. Allison disagreed, saying that he thought the Town “has been more united than it ever has been in the past.” Mr. Kerrigan noted that the Board could always call for reorganization at some point.

Ms. Turner said, “So Jason I think some of the things that we can learn from that we can do better, should you want to be Chair again, getting the items on the agenda would be great and do things like I agree with ... I know we don't comment on public climate but just trying, I think we need to try to calm down the town, I know I’m glad you see everything is half full that's a positive. I think that I do think, realistically, we have more division more hype heard from a lot of people which were all as a team and, as a town, I think people are looking forward to making positive choices, so I do think that we, we set the tone. I think we need to do a better job of setting the tone and recognizing certain you know you can't change something if you don't recognize it's a problem, so I think we have to recognize that we need to work on that and try to get that done so it sounds like you're up to the challenge and that we can approach it again if it gets added you know if it's crazy but there you go.”

Mr. Kerrigan offered an opinion that the Board might want to re-think the assignment of Chair to a term other than yearly, to better coincide with the budget cycle.

Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].

Next the Board addressed appointing a Board member to sign the warrants. Ms. Hodges pointed out that it would be difficult for Ms. Turner to sign the warrants because she is a Town employee. Ms. Turner stated that she has a letter from the Ethics Commission and that while she cannot sign her own, she can sign the rest of the warrant. Mr. Kerrigan said that he could be available to sign warrants. Mr. Allison asked if it were possible to have this responsibility delegated to the Town Administrator. Ms. Hodges has checked on this with Town Counsel; Counsel has agreed that this is possible and has provided a motion to make this happen if desired. Ms. Hodges noted that she is in a better position than the Board members to know what expenses are reasonable on a day-to-day basis, and that in her three weeks here she has seen some expenditures with which she is uncomfortable.

Ms. Turner stated that she feels extremely strongly that the Board should not abdicate this responsibility, and in fact she does not agree with having only one Board member sign the warrant, which the Board has done as a convenience in the last couple of years. She stated that the budget is a statement of policies, and that the warrant follows the budget. Mr. Kerrigan asked why the warrant signing had been delegated to one person; Ms. Turner said it was for convenience, but she would prefer to return to former practice where the Select Board would spend some time signing the warrants prior to or after their meeting, and had the opportunity to question the Town Administrator or the Finance Director on content.

Mr. Allison moved to authorize Town Administrator Kate Hodges to sign the warrants. Mr. Kerrigan seconded for purposes of discussion. Mr. Kerrigan noted that he might possibly vote

for this in the future, but that he would like to take some time to review the issue. Ms. Turner stated that while Ms. Hodges was certainly qualified to do so, but that signing the warrant should be part of a Select Board member's job. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, No; Alexandra W. Turner, No. Motion failed, [1-2-0].*

Ms. Turner moved that the warrants will be signed by a majority of the Board on a weekly basis. Mr. Kerrigan seconded for purposes of discussion. Ms. Turner said that the Board would need to work with the Town Administrator and the Finance Director on how to present the warrant to the Board, but two of three Board members could go to the Finance Director's office and review the warrant. She stated that she had done this in Mr. Moody's absence and that it does not take long. Ms. Hodges noted that she has reviewed the document that Ms. Turner has from the State, but that it was written before Ms. Turner was a Board member and it says that she could participate in the discussion if the discussion was about the budget as a whole, but that in order for Ms. Turner to sign the warrant, everything related to the Community Center would need to be broken out into a separate warrant, and that there is a cost associated with doing this. Ms. Turner replied that every department has their own expense budget so she just does not sign the pages that came from her department. Ms. Hodges replied that although there are multiple cost centers there is only one warrant, including all expense budgets. Ms. Turner stated that this is why she got a written report and that she is allowed to sign, suggesting that Ms. Hodges could check again with Counsel if she liked. Ms. Hodges stated that Ms. Turner would have to do that; Ms. Turner said that she will be happy to do that because she would not want to be in conflict in any way, but she thinks that this is an important part of the duties of being on the Select Board.

Mr. Kerrigan suggested that the opinion sought from Counsel should be as specific as possible to this particular task. He suggested that, since there are a few things to figure out, that the Board appoint one person to sign the warrant.

Mr. Allison expressed concern that there could be a mistake that could reflect on his teammate, Ms. Turner. He said that he does not want to reach out to Ethics or to Counsel because there could still be risk. Ms. Turner said that she will support appointing Mr. Kerrigan in the short term, but she will get something in writing.

Ms. Turner withdrew the motion to require a majority of the Board to sign the warrant.

Mr. Allison moved to make Steve Kerrigan the authority to sign the warrant. Ms. Turner seconded, noting that when she receives a favorable letter back from the Ethics Commission, she would like to join him. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

2. FY22 Spending Freeze Memo from Town Administrator, Kate Hodges, to Department Heads dated May 10, 2022.

Ms. Hodges will be meeting with the Finance Committee tomorrow; she reports that there has been discussion about using accounts other than the general fund. Mr. Allison asked if Ms. Hodges needed action from the Board; Ms. Hodges said no, this was an informational item.

3. Review of New Personnel Documents, Annual Performance Reviews

- a. Management
- b. Administrative-Clerical

Mr. Kerrigan asked if these were new forms; he thinks they're great and likes that they are divided between Management and Administrative-Clerical. He suggests that down the road there might be a few inter-disciplinary questions added.

Ms. Hodges will make a few edits suggested by department heads and then will accompany this with a letter. She would like this done at the end of one fiscal year/beginning of new fiscal year as part of annual goal setting. She recommends that the Board have a goal-setting session.

Mr. Kerrigan noted that doing them all at once is a lot of work for department heads and that they need to start early. Some discussion was held on doing performance reviews on an employee's anniversary date versus all at once.

4. Draft Charge for Governance Study Committee – review and vote may be taken

Ms. Hodges explained that she drafted this document based on both barriers to and triumphs of our form of government. Ms. Turner asked if the goal of reporting back to the Select Board on February 1 was too ambitious; Ms. Hodges anticipates that the entire process will be a lot of work and that the total project will most likely take about three years.

Mr. Allison moved to accept the Governance Study Charter as written. Mr. Kerrigan seconded. Ms. Turner asked if this could be advertised as soon as approved. Ms. Hodges noted that there were already two applicants. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

5. Select Board Delegation of Certain Duties to the Town Administrator

Ms. Hodges introduced a discussion about personnel management. She sees that delegation of authority for personnel management, some years ago, went from the Board to the Town Administrator. She explained the two schools of thought on this; if a board handles this, they need a quorum and often cannot react quickly; if the Select Board handles personnel issues in Executive Session, the employee who may be facing disciplinary action still has their name /title published as part of the meeting, often uncomfortable in a small community. Neither solution "screams welcoming workplace." Secondly, it is incumbent on those setting the goals

to measure how they are being set; this becomes difficult if the Board is involved. In Lancaster, both ways have been used in the past, although nothing has been codified, and in the absence of a Charter, the Town Administrator's responsibilities need to be made clear. Ms. Hodges suggested that this is a discussion that the Board needs to have.

Mr. Kerrigan stated that if we are going to give Ms. Hodges the job, we need to give her the responsibilities; it's very hard to manage people without having the authority to manage people. He would like to review a proposal.

6. Discussion on American Rescue Plan Act (ARPA) requests

- a. Boiler Replacement, Mary Rowlandson Elementary School
- b. Planning Director and Building Commissioner request

Ms. Hodges recapped the ARPA funds use to date. The Board has previously voted to use ARPA funds for the ambulance replacement, for one school boiler at \$150,000, and for \$70,000 for IT servers. Once we subtract that from the ARPA monies, coupled with what was spent on COVID supplies and a few other things, there is \$628,478 remaining.

Ms. Hodges met today with the School Superintendent and the Facilities Manager for the district, and the other boiler at Mary Rowlandson Elementary School is also in failure and will need to be addressed in 16-18 weeks. Because action was not taken quickly enough on the previously failed boiler, the school district needed to rent some temporary boilers, costing the Town an additional \$40,000. She requests that the Board take action on the school boiler this evening, and then at an upcoming meeting would like to discuss other priorities for the ARPA funds.

Ms. Hodges did not request action on the Planning Director/Building Commissioner request at this point; this request was presented at a previous meeting. She noted that this request needs to be considered along with requests from the Police Department and other departments that may not have been asked.

Mr. Kerrigan moved to authorize expending up to \$150,000 from the ARPA money for boiler replacement at the Mary Rowlandson Elementary School as described by the Town Administrator. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

7. Discussion on Affordable Housing Trust Appointments

- a. Member of the Select Board
- b. Ex-officio non-voting member

Mr. Allison recognized Victoria Petracca, Chair of the Lancaster Affordable Housing Trust (LAHT). Ms. Petracca explained that the LAHT is required by statute to have a member of the Select Board as one of the Trustees. Until recently this position was served by Jay Moody who is no longer a member of the Select Board. Additionally, bylaws state that the Town

Administrator is a designated ex officio member. She noted that in some towns the ex officio member can be a designee of the Town Administrator. The Select Board LAHT member generally serves for the length of their term on the Select Board. Mr. Allison moved to appoint Steve Kerrigan to the Lancaster Affordable Housing Trust for the duration of his Select Board term. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Hodges would like to serve in the Town Administrator ex officio position on the LAHT.

Ms. Turner was disappointed as the liaison for the Planning Board, when a recent Select Board Meeting was scheduled in conflict with a Planning Board meeting, and asks the Board to be cognizant of scheduling issues.

VII. APPOINTMENTS AND RESIGNATIONS

Ms. Hodges noted that she was the ADA Coordinator for her former community and would be glad to assume that role for Lancaster.

Resignations:

The Lancaster Director of Community Development and Planning letter to inform the Select Board that Chairman Russ Williston has submitted a letter of resignation from the Planning Board dated April 12, 2022.

- Outline process and timeline for temporary appointment to fill Planning Board vacancy (term to expire?)
- Outline process and timeline for temporary appointment to fill Ad Hoc MOU (Memorandum of Understanding) Committee for North Lancaster

The Select Board was noticed on April 26. The vacancy is able to be filled by a joint appointment by the Select Board and the Planning Board. Ms. Hodges asks that any interested parties submit their application to Ms. Hodges or Ms. Rocco. She has already heard from two applicants and will forward all applications to members of the Select Board and the Planning Board.

Ms. Hodges asked the Board to decide when they would like to meet in a joint meeting with the Planning Board so that she can post it appropriately. The current deadline for applications is June 9, although there has been a Planning Board member request to change this date to June 8 so as to allow a joint meeting on the 9th.

Mr. Kerrigan asked if this appointment would be for the remainder of Mr. Williston's term or until the next election; and then does that election fill the remainder of the term. Ms. Hodges said that it is her understanding that the appointment is for the remainder of Mr. Williston's term; she will find out when that will expire. Mr. Kerrigan noted that this is important to know because some people might be willing to assume the role for 10-11 months, but not for 3-4 years.

Ms. Hodges reminded the Board that they might ask if anyone was interested in assuming Mr. Williston's seat on the MOU committee. Mr. Allison noted that at the May 2 Select Board meeting it was decided that this seat was open to any resident, and was not necessarily tied to the Planning Board. Applications or letters of interest should be sent to the Town Administrator or to the Select Board by June 2. The opening has already been advertised.

Ms. Turner stated that when the MOU Committee was formed, positions were designated by role, not by person, in order to encourage interdisciplinary cooperation, and one of the defined roles was Planning Board Chair or designee. Mr. Allison explained that the Select Board had voted to change this on June 2, and that the Board had agreed to convert this role.

Mr. Allison recognized Roy Mirabito, Planning Board Chair. Mr. Mirabito requested that the deadline for the Planning Board opening letters of interest remain at June 9. The Planning Board will be meeting the following Monday, and they suggested that this could be a joint meeting with the Select Board to interview and select the candidate for the Planning Board opening.

Annual Appointments – Term to expire June 30, 2023: (review & vote may be taken)

Ms. Turner moved to appoint Kate Hodges as ADA Coordinator, Kate Hodges as Chief Procurement Officer, Phyllis Tower as Animal Control Officer, Phyllis Towner as Animal Inspector (Barn Brook), and Brian Gingras as Fence Viewer, with all terms to expire June 30, 2023. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Mr. Kerrigan moved to appoint Alexandra Turner as MART Advisory Board Designee, term to expire June 30, 2023. Mr. Allison seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner moved to appoint Ronald W. Valinski as Measurer of Wood & Bark, Ronald W. Valinski as Sealer of Weights & Measures, Miyares and Harrington, LLP as Town Counsel, and Mirick O'Connell as Labor Counsel. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Re-Appointments: (review and vote may be taken)

Ms. Turner noted that some positions are missing from this list and that according to policy, re-appointments should happen in June. She asked if the other Board members had concerns about doing this early; Msrs. Allison and Kerrigan have no concerns. Ms. Hodges sees no problems procedurally.

Ms. Turner moved to appoint Susan Miner to the Agricultural Commission, Term to expire 6/30/25 and Robert Foney to the Animal Control Commission, Term to expire 6/30/25. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner nominated Frank Sullivan to the Zoning Board of Appeals (ZBA), term to expire 6/30/27 (Five-year term). Mr. Kerrigan seconded. Ms. Turner stated that according to bylaws, the Select Board appointments are 1-3 years. She stated that she looked up the state statute and found nothing relative to ZBA terms, so she believes that a five-year appointment is inconsistent with Lancaster's bylaws. Ms. Hodges will review with Ms. Rocco, who manages appointments and resignations. Mr. Kerrigan moved to table this appointment until further clarification is had; Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, motion tabled. [3-0-0].*

Ms. Turner requested that Ms. Hodges check on the appointment of Dennis Hubbard to the ZBA; she believes his term is expiring, but his name is not on the re-appointment list.

Ms. Turner moved to appoint Joy Peach, Joan Richards, and Mark Schryver as Members of the Historical Commission, with all terms to expire 6/30/25, and Jean Watson as an Associate Member of the Historical Commission, term to expire 6/30/25. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner moved to appoint Mark Renczkowski and Monica Tarbell to the Recreation Committee, terms to expire 6/30/25. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner moved to appoint Mary Perreira (D) to the Board of Registrars, term to expire 6/30/25. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

VIII. LICENSES AND PERMITS

Ms. Turner moved to approve a License for Theatrical Exhibitions, Public Shows, Public Amusements and Exhibitions of Every Descriptions held on Weekdays for Profound Market at Lancaster Fairgrounds, 318 Seven Bridge Road to be held on Saturday, June 11, 2022, from 8:30am-5:00pm. Mr. Kerrigan seconded. Ms. Turner asked if applications had gone to appropriate departments, i.e., Police, Fire, Board of Health, Building Inspector. Ms. Hodges said that she believed they had been distributed as usual. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner moved to approve a License for Town Licenses Dancing, Sports, Games, Fairs, Expositions, Plays or Entertainment of Public Diversion on Sunday for Profound Market at Lancaster Fairgrounds, 318 Seven Bridge Road to be held on Sunday, June 12, 2022, from 10:00am-5:00pm. Mr. Kerrigan seconded. Ms. Turner asked Ms. Hodges if it was appropriate for her to make a motion contingent on approval by departments as noted in the previous motion. Ms. Hodges said that there was a person at the Fairgrounds making sure that all approvals are in order at the same time the Select Board is approving the License. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner moved to approve a Special (One Day) Liquor License Application for the Bolton Fair, Inc., 318 Seven Bridge Road, for the Event Profound Market from June 11, 2022 (8:30am-5:00pm)– June 12, 2022 (10:00am- 5:00pm) (Delivery Date June 10, 2022) for All Alcohol – Non-Profit. Mr. Kerrigan seconded. Ms. Turner again asked about making the motion contingent on approval by appropriate boards and departments. Msrs. Allison and Kerrigan both stated that they were leery of contingencies as part of any motion, and that if Ms. Turner had questions about the preparation of the motion she should ask Ms. Hodges. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner moved to approve a Special (One Day) Liquor License Application for Beer and Wine to Little Bear Stables for their fund raiser /grand opening, located at 61 Moffett Street, Lancaster, to be held on May 21, 2022, from 11:00am-4:00pm. Mr. Kerrigan seconded. Ms. Turner said that she has spoken to Ms. Hodges about this; there are conditions set forth by Mass. Department of Agriculture, and Ms. Turner hopes that the Police, Fire, Health and Building Departments have been consulted, especially since this is a first event for this applicant. Ms. Hodges explained that she received a call from the today to advise that the applicant has been issued a Cease and Desist order from the Mass. Department of Agriculture relative to this event. Police Chief Moody was recognized by the Chair; there seems to be some conflicting information regarding the applicant's non-profit status, but they do meet the Police Department's criteria for an event. It was determined that although the State has some issues with non-profit status having been filed but not yet approved, that the only issue facing the Board is the granting of the liquor license, which receives favorable recommendation from the Police Department. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner moved to approve a Town of Lancaster Application for Use of Town Green/Gazebo for the Thayer Memorial Library for weekly activities to be held on Thursdays and Fridays (May 2022 – October 2022) for story times, outside weather permitting, at 10:30am. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

IX. OTHER/UNFINISHED BUSINESS

X. NEW BUSINESS

**This item is included to acknowledge that there may be matters not reasonable anticipated by the Chair.*

XII. COMMUNICATIONS

- Select Board will hold a Special Meeting (Hybrid) on May 23, 2022, at 6pm in the Nashaway and via ZOOM.

Ms. Hodges, in response to Mr. Allison's questions, explained that the IT Director has worked with Lancaster Sterling TV, and we have a new piece of equipment called an Apple. It was tested earlier today, and essentially it will allow people to speak and be heard in the room while also engaging other persons in the room. As Chair, Mr. Allison

will have a keyboard that he will use to control who is talking and whether you want to alternate between individuals in the room and an individualized ZOOM or whether you can see the entire room. It will be recorded, similar to current Select Board meetings.

Ms. Turner noted that the Planning Board will be meeting at the same time as this meeting and wondered if the Board would like to meet earlier so that the Planning Board could be part of the 40B meeting. Mr. Allison stated that he has not heard from the Planning Board but that he and Ms. Hodges would investigate possibilities. Mr. Allison recognized Roy Mirabito, who stated that he had sent an email to Ms. Hodges last week regarding the simultaneous scheduling of both meetings, noting that due to high COVID transmission rates he did not think that an in-person meeting was a good idea. Ms. Hodges explained that she had responded to Mr. Mirabito that the meeting would be on ZOOM as well as in person with a copy to Mr. Allison. Mr. Allison will need to review the email; he will review and respond.

- Town Offices will be closed on Monday, May 30, 2022, in observance of Memorial Day.

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| XIII. ADJOURNMENT |
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Mr. Kerrigan moved to adjourn the meeting. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Respectfully submitted

Kathleen Rocco
Executive Assistant

Alexandra W. Turner, Clerk
Approved and accepted:



**LANCASTER SELECT BOARD
Special Meeting Minutes
of May 23, 2022**

I. CALL TO ORDER

Chairman Jason Allison called the Special Meeting of the Select Board to Order at 6:00 P.M. in the Nashaway Meeting Room located on the second floor in the Prescott Building, 701 Main Street, Lancaster, MA 01523

This meeting was also held virtually via ZOOM™.

Join Zoom Meeting

<https://us02web.zoom.us/j/86330585576>

Meeting ID: 863 3058 5576

Roll call taken, Jason A. Allison, present, Stephen J. Kerrigan, present, and Alexandra W. Turner, present. Mr. Allison advised that the meeting was being recorded.

Mr. Kerrigan moved to address Item VII, Number 1, out of order. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Ms. Turner moved to go into Executive Session pursuant to Open Meeting Law Ch. 30A, Section 21 (a) to discuss the discipline or dismissal of, or complaints against the Town Clerk Lisa Johnson, and to reconvene in Open Session thereafter (Roll Call Vote). Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

The Board went into Executive Session at 6:06pm, reconvening in Open Session at 6:46pm.

II. APPROVAL OF MEETING MINUTES - NONE

III. SCHEDULED APPEARANCES & PUBLIC HEARINGS - NONE

IV. BOARD, COMMITTEE AND DEPARTMENT REPORTS - NONE

V. PUBLIC COMMENT PERIOD

Opportunity for the public to address their concerns, make comment and offer suggestions on operations or programs, except personnel matters. Complaints or criticism directed at staff, volunteers, or other officials shall not be permitted.

Mr. Allison explained that the Board would try something different for Public Comments, with a limit of four minutes per comment rather than three minutes. At one minute there will no longer be a buzzer but the Chair will make a verbal comment, and comments will be ended at four minutes.

Chair Allison recognized Greg Jackson, 40 Farnsworth Way.

Mr. Jackson stated that he has comments and concerns about the 40B application in North Lancaster, saying "I would like to note that we're at the start of the process, the applicant is just applied for project eligibility. As far as I know, they have not received any approval at this point from the subsidizing agency, which I believe is MassHousing. We're in a 30 day comment period. From what I've seen from other examples in recent years, effective leadership from the town can reduce the financial, environmental, traffic and other impacts on the town and local neighborhoods of 40B project, There are examples where strong community response has made a big difference. The Town does not have to accept this proposal as it is presented in its current form. The application submitted was for 200 units; it represents a large 40B project for a town with a housing inventory, the size of Lancaster. As a result it's impacts are considerable and should be carefully reviewed and mitigated during the comprehensive permit process through reasonable and appropriate conditions. For example, reducing the height of the buildings to comply with town zoning would reduce (?) relative to nearby neighborhoods. Inclusion of rental units in the proposal could improve the production of affordable housing units for the town. A comprehensive permit process could take 12-18 months to complete if the applicant follows through with this proposal. During The Board of Appeals hearing the project could be reduced in size due to local concerns such as mitigation of impacts or adherence to state and local rules and regulations. We've seen this before with the proposal on Sterling Road. The Town could not arbitrarily or unreasonably constrain the project, but the applicant would have to demonstrate any financial burdens beyond what was allowed for a 40B project. I'd also like to note that technical assistance is available to the Board of Appeals through the Comprehensive Permit Process, and I would encourage the Town to seek and utilize all assistance and peer review support that is possible. In some ways, looking at the site, I would say, the situation of the 200 unit project is not a bad starting point from a future resident's point of view. This neighborhood is isolated from the adjacent industrial and commercial buildings. It would not have business or commuter traffic flowing through it. The proposed project has lots of open space and recreational opportunities nearby, including amenities on site. The development does not appear to encroach into any nearby wetlands buffers. In those regards it appears to provide a nicer neighborhood setting than the proposal 40R district on the other end of that area. ... It would not be as dense or congested or noisy. The density of the proposed 40B is just under nine units per acre, whereas the 40R district must have a minimum of 20 units per acre. A potential problem with this proposal is what's not being presented or explained by the applicant. That is what development will occur on adjacent lands to the immediate east or west of this location. Any attempt to circumvent 40B guidelines through segmentation of the project or space and time would likely not be looked upon favorably by DHCD. It should be noted that the 200 housing units would consume a third to a half of the water available to this developer, as well as almost half of their planned sewer capacity. Limitations on available water and sewer would determine what was available for the rest of the

larger parcel. Thank you for the opportunity to comment. Greg Jackson, commenting as a resident Thank you.

Chair Allison recognized Rob Zidek, 103 Kaleva Road.

Mr. Zidek said, "... We don't look in the past with regret nor in the future fear, but around awareness. And something I'm kind of wondering if there's not some form of zone chicken going on here, I couldn't think of a better name. I suspect that all parties have looked back at how this whole deal started. Look now at where we are, and have come to the same conclusion. It's very likely not going to work, but who wants to raise your hand and say that? We've seen what people who make wise courageous decisions have to face when that decision displeases the loud vicious minority. So why won't the straight residential to industrial change work? It actually became evident last year to me, the petitioner reading a letter that was able to sway the voters not to vote on this article, presumably, out of fear that it would not get the two thirds majority. Five days before that, the Lancaster Affordable Housing Trust Chair and Economic Development Committee Chair circulated emails to encourage their committee members, and anyone else receiving that email chain, to first try send it back to the Planning Board for negative action, which ended up working, but if that did not work and the article came to question, I believe the term is, to definitely vote no on the rezoning article, that same article that potentially will come up 15 months later. And there is our Select Board Chair, perhaps the most fervent proponent of this rezoning, telling us all that it would be a bad deal for Lancaster unless there was a an affordable housing project ... located with 2.4 million square feet of warehouses with trucks, employees, vehicles, school buses, pedestrians, motorcycles, bicycles, baby strollers, students, joggers and dogs, hopefully leashed, all sharing McGovern Boulevard and the heavily trafficked Lunenburg Road, every time they want in or out. But that's where the logic falls apart because, with all that housing, we have some really serious, undeniable, I believe unbeatable, Environmental Justice concerns either one, the 40B or the 40R. The 40B, as Mr. Jackson so well said no, it does not have trucks going through their neighborhood, but they have to go through the truck neighborhood, so you know one has it one way, the other has it the other way, they're both bad. I guess what I'm asking is for the Town Administrator, the Select Board, or all the other boards to consider all options at this point, and especially the opportunity options. We have two new members here tonight, we have when we have DCAMM, which I still believe is the mother lode, and then we can make good revenue off the buy rights and IPOD situations out there in North Lancaster. So I ask you to consider it, this is a great time to do it. These affordable housing projects are great, they're fantastic, I'm a big time affordable housing proponent. But not there with the warehouses. Thank you very much, and I hope this format works for all of us."

Mr. Allison recognized Cara Sanford, 350 Bull Hill Road.

Ms. Sanford stated that "the 40B is on 22 of the 37 acres we conveyed to the Capital Group in the 2017 land settlement, for I think around \$7,600 an acre at auction. My understanding is that residents' public comment questions have been given to the Capital Group minus the identifying name, so that the developer can respond to them with answers, and, lastly, that the Capital Group refers to public transportation being available to the 40B residents at the nearby Logistics Center. If the Affordable Housing Trust has the opportunity sometime this evening to address my

question, has MART committed to a bus stop at the Logistics Complex if the 40R doesn't go through? Thank you."

Ms. Young-Jones stated, "This isn't exactly specific to the 40B, but it could be, and it takes into account what Rob was just talking about I really think that in order for both Lancaster and the developer, to be successful. We need a connection to route 190 that's, the only way a warehouse facility will work along with a residential neighborhood. So that's what I'm thinking that they should focus on and spend their energy on. Thank you."

Mr. Allison recognized Ann Ogilvie , 4 Turner Lane.

Ms. Ogilvie said, "I'm making a public comment tonight as a resident of Lancaster in response to the recent 40B application submitted by Capital Group Properties. The recent 200 unit 40B application by Capital Group Properties would not be possible without their having received a landlocked parcel in the center of their property, in the 2017 land settlement agreement with the Town of Lancaster. This settlement agreement remains unfulfilled, with these developers still having not transferred the 86 acres of conservation land to the town, despite assurances by their own counsel, in a recent public meeting, that they are ready, willing and able to do so. We have heard multiple explanations from Capital Group representatives at public meetings about why they did not transfer the land ranging from the town just wouldn't take it and we don't know why to one of the KP Law lawyers just never got back to us and beyond. We also now know that a mortgage on the 86 acres in question is the subject of a current breach of contract lawsuit. As the town responds to the 40B proposal, I urge the Select Board and the Town Administrator to seek a full understanding of exactly why the 86 acres was never transferred to the Town and to inform residents about the details of this failed legal agreement. This contract failure is directly related to the 40B proposal, as the proposal concerns land that the applicants were permitted to purchase as a result of that agreement. And also, as the developers are the same ones that have still not transferred the land to the town. Chairman Allison has said in two separate public meetings that he would pursue a legal case against these developers if the rezoning proposal before the town fails. But why should residents have to wait until that point to learn the truth about what happened? As multiple new agreements are negotiated with these partners, it is essential for Lancaster to understand the reasons behind the previous performance failure. Another point of concern with regard to this proposed 40B, is the question of the water agreements with the City of Leominster and whether the City of Leominster, who appears to have a say in each development proposal, will allow the water to be used for extensive residential development such as this 200 unit 40B, or the 509 40R units simultaneously proposed by this developer. In a March 15, 2021, Leominster City Council meeting, Roger Brooks of the Leominster DPW confirmed to the Council, after reviewing the proposal, that the water agreement proposal was for commercial retail space only and just a few houses over the Leominster-Lancaster line. Leominster City Councilor Susan Chalifoux Zephir asked if housing was excluded and was told by Mr. Brooks that there may be one small subdivision right at the Johnny Appleseed line. He said, this is not condos, it is single family properties. It seems prudent for the town of Lancaster to confirm with the City of Leominster whether a large scale residential developments such as either the 40B or the 40R currently proposed would be projects that Leominster would approve the water utility for, and given that so many future residents will depend on this drinking water, that the developers are prepared to appropriately manage through

routine and emergency maintenance and repairs, that they are responsible for, according to the agreements. As many other residents have pointed out, there seem to be many flaws and inaccuracies within this 40B application. It is my fervent hope that the Town of Lancaster and our Select Board will address these thoroughly in your response, to ensure the best possible process and outcome for Lancaster regarding this proposal. Thank you very much."

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| VI. TOWN ADMINISTRATOR REPORT - NONE |
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| VII. ADMINISTRATION, BUDGET, AND POLICY |
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1. **Move to go into Executive Session pursuant to Open Meeting Law Ch. 30A, Section 21 (a) to discuss the discipline or dismissal of, or complaints against the Town Clerk Lisa Johnson, and to reconvene in Open Session thereafter (Roll Call Vote).**

(Taken out of order earlier in meeting.)

2. **To go over Town's response to the Capital Group's Comprehensive Permit Site Approval which was filed with the Massachusetts Housing Finance Agency (MassHousing).**

Ms. Hodges, Town Administrator, explained that she submitted a synopsis to the Board last week, on Thursday. It was posted online and essentially gives a synopsis split up into various fields, so the first were for private citizens and the second for town boards and committees. She included most of the comments, unless they were nonfactual based, so if they were based on opinion of Capital Group or any one of their staff members, or any staff member of Town they were left out because they weren't particularly sensitive to the application.

She explained that she plans on sending this to MassHousing by registered mail, overnight delivery, on Thursday to meet the 30 day window.

Ms. Turner noted that under the boards' feedback section that the Planning Board is especially important and wanted to make sure that comments resulting from tonight's Planning Board meeting could be incorporated into the document. Ms. Hodges concurred that these comments could be included. Ms. Turner thinks that it would be helpful to include as much information as possible about the environmental impact that the 40B project could have on the area. Ms. Hodges will double check to see if she has received any additional information from the Conservation Commission. Ms. Turner also expressed concern that she does not see feedback from Public Safety and wondered if that would be more apt to happen later in the process. Ms. Hodges agreed that Public Safety input would be more likely during the ZBA Hearing phase. Ms. Turner noted that some of the concerns, especially legal issues and Environmental Justice would be raised during the MEPA permitting.

Ms. Turner asked if there was time to investigate water concerns that have been raised prior to finalizing the letter; Ms. Hodges said that she has done some preliminary investigation on this topic and that the water agreement seems to be complete and well done, so that it does not appear to be an exposure for Lancaster.

Mr. Kerrigan agreed that he would like to see Conservation Commission comments included in the compilation.

Mr. Allison thanked Ms. Hodges for her work on this letter. He is concerned that many of the comments received seem to be procedural. He asked how many different people submitted comments. Ms. Hodges said that she believes she received 38 emails, with some emails from a citizen plus spouse. Mr. Allison, speaking to residents, said that if people really believe that the 40B project in question is wrong for Lancaster, they need to self-organize and make themselves heard, because this is not many people.

Mr. Kerrigan asked if Ms. Hodges needed anything procedurally from the Board or if she was good to go. Ms. Hodges expressed concern that she was hoping to have more definitive answers from citizens or committees as to whether or not they were supportive in theory of the 40B project, although she agreed that there will be many more opportunities for dialogue on this issue.

Ms. Turner stated that the Board has not debated this issue until now, stating that while she is very much in favor of affordable housing, she does not think this is a great project at the right place for right now. She is concerned that affordable housing not be next to a large industrial project and thinks there may be a better location, DCAMM for example, or working with the developers of AUC. She said that she has grave concerns, and that she did not mention them before because she thought that at this stage we were just talking about safety and environmental and health issues and so on. She stated that it does check the need for affordable housing but that it also reduces the potential industrial tax base, and we are developing an area that is not fair to put people in, in her opinion.

Mr. Kerrigan cautioned against using DCAMM or AUC as a “silver bullet.” He thinks that both of these sites may be wonderful later on, but that right now the topic needs to be the proposed 40B and 40R, and the DCAMM or AUC sites are down a long road.

Mr. Allison stated that, contrary to popular belief, he is in favor of putting options before the Town, and that his objective is to allow people to vote on opportunities in North Lancaster. He thinks that there are better deals than the 40B, and he encourages people to make their voices heard. He expressed disappointment that the Planning Board has not yet offered an opinion or a plan. Discussion was held about how Board members could speak as individuals without implying that they were speaking for the Board. Ms. Turner, after this meeting adjourns, will attend the Planning Board meeting. If the Planning Board has comments or opinions regarding the 40B, Ms. Hodges will attach to the letter from the Select Board to MassHousing as an addendum and she has done with comments from other boards. Boards and committees should have their input to Ms. Hodges by Thursday at noon.

The Board engaged in discussion about the 40B versus the 40R. Ms. Turner recalls a public hearing relative to the 40R and would like to ask questions at an upcoming meeting.

After discussion, Ms. Hodges asked the Board if it was accurate to summarize opinions on the 40B project by saying that while no one is dismissing the 40B project out of hand, it would

not be the most advantageous project for the community at this time. All members of the Board agreed that this is accurate.

VIII. APPOINTMENTS AND RESIGNATIONS - NONE

IX. LICENSES AND PERMITS

- Special (One Day) Liquor License for Wine & Malt for Sterling Street Brewery
For the FC Stars Event to be held at the FC Stars Complex, 70 McGovern Boulevard on Thursday, May 26, 2022, from 4pm-9pm

Ms. Turner moved to approve a Special One Day Liquor License for Wine & Malt for the Sterling Street Brewery for the FC Stars Event to be held at the FC Stars Complex, 70 McGovern Boulevard, on Thursday, May 26, 2022, from 4pm-9pm. Mr. Kerrigan seconded. Ms. Turner noted that the usual public safety paperwork was not attached to the application. Mr. Allison recognized Chief Moody and asked if he had had a chance to review this application. Chief Moody replied that his recommendation was to approve the license with a 4-hour police detail. He noted that the organizers of the event expect from 700-1000 participants, so he would like an officer there just to be cautious. Ms. Turner amended the motion to include one detail officer from 5:00-9:00pm as recommended by Chief Moody. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

X. OTHER/UNFINISHED BUSINESS

XI. NEW BUSINESS

**This item is included to acknowledge that there may be matters not reasonable anticipated by the Chair.*

XII. COMMUNICATIONS

- Town Offices will be closed on Monday, May 30, 2022, in observance of Memorial Day.

XIII. ADJOURNMENT

Mr. Kerrigan moved to adjourn the meeting. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Respectfully submitted

Kathleen Rocco
Executive Assistant

Alexandra W. Turner, Clerk
Approved and accepted:

III. SCHEDULED APPEARANCES & PUBLIC HEARINGS



June 1, 2022

Town of Lancaster Select Board
Attn: Kate Hodges, Town Administrator
By email (khodges@lanasterma.net)
701 Main Street
Lancaster, MA 01523

RE: P.J. Keating Company Response to CEI Peer Review of Special Permit to Remove Earth Products

Dear Ms. Hodges,

Thank you for forwarding the CEI peer review report. Please see comments by P.J. Keating (PJK) compiled with the assistance of our professional consultants, TRC's Andrew Smyth, Professional Geologist and Principal Consultant, Gary Hunt, Vice President and Air Sciences Technical Director and North American Reserve's Michael Wright, Principal Geologist. We have included CEI comments verbatim. PJK's comments may be found in **green font** following those comments.

1. SPECIAL PERMIT CONDITIONS

Special Permit Conditions are presented verbatim below in **blue font** followed by related CEI review comments. The numbering below is based on the Condition numbering in the Special Permit. Conditions not listed below did not have suggested revisions or comments from CEI.

Condition 2. The shoreline of the end-use quarry pond and all disturbed non-bedrock surfaces shall be restored with a minimum depth of nine inches of loam which shall be capable of supporting grass growth. These areas shall be restored upon completion of the earth removal authorized by this special permit. These areas shall be hydroseeded and the planted area shall be protected from erosion during the establishment period using sound conservation practices. Areas that wash out shall be repaired immediately. Trees or shrubs of prescribed species shall be planted to provide screening and reduce erosion during the establishment period.

CEI Comments:

- A minimum width of 25 feet is recommended for the required loam and vegetation establishment around the perimeter of the quarry pond. This width is based on (1) the assumption that end use quarry pond will become a wetland resource area protected per 310 CMR 10.00 and the Lancaster Wetlands Protection Bylaw after the quarry has been inactive for five or more consecutive years, and (2) establishment of a vegetated buffer consistent with the Bylaw 25-foot no disturb zone.

At the end of the life of the quarry, P.J. Keating (PJK) will provide a 25-foot natural vegetative perimeter around the rim of the quarry for those areas that are not naturally revegetated. The establishment of the 25-foot zone will include, if necessary, the application of loam to establish the vegetative zone which may include the planting of trees and shrubs based on site conditions at the time.

The quarry will naturally fill with groundwater and rainfall and become a static height at the approximate elevation of the nearest wetland, which is located at the southwestern end of the quarry. That wetland complex is at elevation 393± and the quarry rim is at elevation 403±

(MassMapper). Further, the quarry rim will be fenced, and the entire property is and will continue to be posted for no trespassing.

- A specification for loam should be required to ensure good quality planting conditions, including a minimum organic content of 4-6% by weight.

As stated above, at the end of the quarry life, a 25-foot vegetative perimeter around the rim of the quarry will be established for those areas not vegetated with natural vegetation. The establishment of the 25-foot zone will include, if necessary, the application of loam to establish the vegetative zone. It should be understood, that by the time the quarry is abandoned there will be vegetation all along the perimeter as PJK is going deeper over the next several decades, not horizontally. It would make little sense to remove this natural vegetation.

- Planted trees and shrubs should be species native to the Northeastern U.S. and from a list submitted by the Applicant and approved by the Town. In areas where trees or shrubs will be planted, a minimum topsoil depth of 18 inches is recommended. An equal depth of subsoil is also recommended to allow for an adequate rooting zone for woody species. Spacing for trees and shrubs should be specified (e.g., 8-feet on center for tree species, 5-feet on center for smaller shrub species).

Native vegetation present will continue to establish and encroach closer to the quarry rim. In particular, at the end of the life of the quarry. Should non-vegetated areas exist, supplemental endemic plantings (trees and shrubs) will take place based on the site conditions at the time.

Condition 5: Dust Control measures shall be undertaken as specified in the approved plans.

CEI Comments:

- There are no approved plans associated with the Special Permit that specify dust control measures. Dust control appears to be an ongoing challenge for the portion of Fort Pond Road (Route 70) near the quarry, and inclusion of a plan and/or a detailed narrative specifying dust control measures is recommended.

Dust suppression is paramount to PJK, and the quarry operation utilizes two water trucks and two street sweepers that circulate all areas of the facility on a daily basis. Also, as indicated to the CEI reviewers, PJK was about to, and since has made improvements to the grade of the paved surface at the exit drive (in Lunenburg) from the quarry to better shed water and control water tracking onto Fort Pond Road in Lunenburg. PJK will continue to monitor the situation on a constant basis.

Tighe & Bond conducted a site inspection on April 1, 2022, and noted that:

“Water Truck on site, used throughout the day on haul roads and quarry base. Two sweepers run daily at road crossings.”

Tighe & Bond did not identify any corrective action that needed to be taken by PJK and found that permit conditions were being met.

As a reference, CEI reviewed the current Storm Water Pollution Prevention Plan (SWPPP) associated with the National Pollutant Discharge Elimination System (NPDES) permit for the Site. Although no reference to dust control measures is included in the SWPPP plans, (PJK does not understand the inclusion of this statement; CEI indicates the SWPPP does not discuss dust control but then goes on to reference section 3.7.7 of the SWPPP which does include dust management; further, dust control measures are also included in other sections of the SWPPP). Note the SWPPP document includes the following narrative:

3.7.7 Dust Generation and Vehicle Tracking of Industrial Materials

Dust generation and vehicle tracking activities potentially occur in each of the Drainage Areas at the facility. The Lunenburg facility maintains dust control by pumping water from the detention basins and using it for dust suppression as necessary. A mobile water truck is also used at the facility to wet down on-site roads to minimize the amount of dust generated by vehicle traffic and the transport and deposition of sediment on surrounding public roadways. Locations where vehicles enter and exit the site are inspected regularly for sediment that has been tracked off site. If sediment has been tracked off site, the paved surfaces are swept.

- Based on dust control measures required at similar quarry operations, the Town should consider requiring the following:
 - Dust monitoring (e.g., by installation of a high-volume air sampler) to identify periods when/if fugitive dust conditions warrant additional control actions to protect public health.

Given that aggressive dust control measures are currently in place as noted above air monitoring is not warranted. Further, the absence of nuisance dust complaints supports this position. In the event that PJK elects to perform air monitoring in the future, high volume air sampling methodology would not be the appropriate methodology.

- Additional control actions could include installation of a dust suppression system for haul trucks along the quarry interior roadways, such as a wheel wash system comprised of roadside sprinklers which spray trucks as they pass by.

PJK does not understand what “a wheel wash system comprised of roadside sprinklers which spray trucks as they pass by” would accomplish. Adding additional water to the wheels of 80-ton haul vehicles would merely track out additional haul road dirt into the roadway, not less. The balance of water addition directly to the road is carefully monitored and additional sprinkler water on the haul road would not serve to reduce water and soil tracking at the haul crossroads.

Condition 25: The permit holder shall continue to undertake a hydrogeologic study that shall continue for the duration of the earth product removal operation. To facilitate the continuation of the long term hydrogeologic monitoring program the permit holder shall collect a minimum of monthly measurements of the groundwater water table and behavior in the monitoring wells, continuous weather station measurements, monthly stormwater flow measurements for the lower quarry and upper quarry flow meters, and monthly measurements of the sump water elevation for the duration of the earth product removal operation. Pressure transducers shall be implemented within groundwater monitoring wells to monitor groundwater water table behavior at hourly increments. Upon failure of any pressure transducers, the permit holder has 90-days to replace the equipment. These measurements shall be provided to the Board of Selectmen quarterly, or more frequently as requested by the Board of Selectmen, and these measurements shall be reviewed by the Town’s consultant as requested by the Town. All costs for outside consultant services used for inspection, data review, comment, and recommendation purposes shall be paid for by the permit holder. The hydrogeologic study shall be modified, when needed, based on recommendations by the Board’s consultant.

- a. New hourly reporting pressure transducers shall be replaced in all groundwater monitoring wells by April 15, 2022.

CEI Comments:

1. Hydrogeologic Study

In addition to ongoing monitoring of groundwater levels and stormwater flow volumes, Keating conducted a hydrogeologic study in 2005 (NAR) to partially address this permit condition. This study focused on a review of the general bedrock geology and a review of existing bedrock wells in the

area. The 2005 NAR study concludes that the existing bedrock wells have fairly uniform characteristics based upon specific capacity calculations and that any higher yielding bedrock wells are likely influenced by proximate surface water bodies. One exception was existing bedrock well #33, which had the highest yield of the sample group, likely associated with its location along the **Weepee (Wekepeke)** Fault System. Final recommendations of the 2005 NAR study were to install four bedrock monitoring wells, drilled to the permitted depth of quarry excavation. The recommended well locations were based on installing one in each direction (north, south, east, west) with the north/south monitoring wells located along the Wekepeke fault line.

The conclusions and recommended monitoring plan of the 2005 NAR study do not fully correlate with the geologic features and data limitations identified in the study. Specifically, we note the following key issues:

- The 2005 NAR study notes that the **landfill** site in general has a “*complicated array of jointing*” and “*near vertical fractures*” as observed at several of the NAR field reconnaissance locations. These features are due to the quarry site being transected by the Wekepeke Fault System. This extent of fracturing would logically increase the potential for groundwater movement in a multitude of directions.

NAR performed an evaluation of the fractures within the quarry. The fractures observed were all on faces of rock that had been blasted. This is not what the rock looked like in any of the core holes that were drilled to construct the wells. In fact, the core showed quite the opposite. The rock core was evaluated for Rock Quality Designation (RQD), which is expressed as a percentage and its formula is the sum of the length of intact core pieces that are longer than twice the diameter of the core recovered during the core run divided by the total length of the core run. The quality (strength) of the rock core from the borehole is thereby assessed on a scale from very poor to excellent: 0-25% = very poor, 25-30% = poor, 30-75% = fair, 75-90% = good, and 90-100% = excellent. Therefore, RQD denotes the degree and depth of fracturing, weathering, shearing, and other areas of weakness in a rock mass. The RQD of the cores for the deep bedrock wells are typically between 90-100%.

The presence of intact massive bedrock at the quarry site indicates that the fractures are not extensive and testing data indicates that the fault is not more permeable than the surrounding massive rock. This is not uncommon, as processes such as fault zone sediment mixing, clay smears, cataclasis, and geochemical precipitation can result in lower fault zone permeability than source rock. For example, the NAR report identified that:

“Wells 5 and 7 are almost directly on-strike of the fault line that identifies the Wekepeke fault zone. It would be intuitive to most hydrogeologists that these wells would have been expected to have some of the highest yields because of enhanced fracturing and interconnection of fractures caused by the faulting. However, these wells have yields that are below the average of the data set, so it appears that the fault is not an important hydrogeologic factor in the yield of these wells.” In other words, the statement by CEI that the fractures are more permeable and lead to increased groundwater movement is incorrect and misleading.

- The 2005 NAR study evaluated existing bedrock wells in the vicinity of the quarry, , classifying the wells as above or below average yield (i.e., 10 gallons per foot of drawdown) based on readily available data from the well drillers. Based on the location of most of the high yield wells (proximate to a lake or pond), NAR inferred that the higher well yields were influenced by surface water, even those these wells were approximately 500 feet deep. Location alone does not necessarily mean there is any connection between a surface water body and a 500- foot-deep bedrock well, as it is common for surface water bodies to be “perched” and protected by a bottom impervious (or semi-impervious) layer.

The data from well drillers is not exactly the data you would use or quote unless you know how the drillers got their values. Most well drillers do not do this correctly. Each well was tested at 5-foot intervals to evaluate the K value of the well. NAR calculated by three (3) varied sets of formulas and then averaged over the interval to arrive at a "conservative" value. All the K values obtained were between 10-1 to 10-3 ft/day. This is an average value for metamorphic rock and illustrated that the rock is not a good transmitter of flow. That is very slow movement for ground water.

The closest public water supply well (well 08G) has been Zone 2 modelled and the public well draws water from the surface water at Turner Pond. CEI has not presented any data to show that the surface water is "common[ly]" "perched" and unable to be the principal water source for bedrock wells.

- The 2005 NAR study used well drilling records for the analysis, most likely from the date of installation for each bedrock well. These well drilling records are of limited value for determining regional groundwater flow patterns, since they are typically performed with the sole purpose of confirming sufficient water quantity and quality for a residential dwelling. A more detailed pump test (e.g., pumping to determine sustained yield) would be required as part of a hydrogeological study to determine overall regional groundwater flow patterns.

See above. The wells were installed according to the lineaments. There has never been any substantive evidence presented that the quarry has had any impact on private wells. These unsubstantiated allegations are convenient but without merit. A comprehensive study was conducted, and professional geologists and hydrogeologist hired by PJK have agreed with the Town's consultant T&B, which also has Professional Geologists reviewing this work. It is PJK's understanding that T&B will also be analyzing CEI's findings and providing a letter to the Town.

- The 2005 NAR study specifically notes that the "*quarry is generally very dry*", most likely due to the "*strongly developed fracture system...allowing infiltration and recharge*" associated with steeply dipping cleavage planes that can be near vertical in some locations.

These statements do not go together. The walls of the quarry are shattered and fractured due to blasting. At approximately 10 to 20 feet into the highwall, these fractures are not present. The quarry has minimal water entering it because it is very tight rock.

These observations and bedrock features appear to provide a potential viable path for surface water to flow deep into the bedrock and then travel along the extensive fracturing in a multitude of directions. The limited locations and depths of the four existing bedrock monitoring wells are not sufficient to identify potential impacts of the quarry operation on groundwater flows and water quality in the area.

- CEI recommends that additional bedrock monitoring wells be installed around the perimeter of the quarry, as follows:
 - Ideally, additional monitoring wells would be located along identified surface lineaments that reflect sub-surface bedrock fractures;
Wells were installed according to the lineaments. Additional wells are not needed as they would be redundant, providing no new information.
 - Alternatively, new wells could be located at regularly spaced intervals along the quarry perimeter. If this approach is used, CEI recommends installation of six wells at approximate 550-foot intervals along the southern/eastern quarry perimeter (from the southern tip of the quarry to the intersection of the quarry haul road and Fort Pond Road).

See PJK response to Condition 30.

- CEI also recommends that water samples be collected and analyzed from these bedrock monitoring wells on an annual basis, to allow for assessment of any potential impacts of the quarry operation on off-site bedrock water supply wells. *See Section 2 for a list of recommended monitoring parameters.*

See PJK response to Condition 30.

2. Monitoring Equipment

During the site walk on April 22, 2022, NAR stated that they will be installing In-Situ Level TROLL® 400 pressure transducers in all of the monitoring wells with the ability to connect to the instruments with Bluetooth for profiling and downloading data. NAR stated that the transducers will be set to monitor groundwater water table behavior at hourly increments and they will collect data using a cloud storage service and complete a quality control check before they are sent to the town for review. These transducers have a battery life of 10 years or 2 million readings. The Bluetooth capabilities will allow for a quicker and easier download of data and will remove some likelihood for human error and damage to transducers as a result of removing the instrument to download readings, clear the device, and reinstall the instrument.

Presumably, this statement is in agreement with the installed transducers and the collection of data on an hourly basis.

Scheduled maintenance of these instruments is critical to sustain their accuracy and longevity, and should include the following:

- a. Scheduled maintenance should be required as described in the In-Situ Operator's Manual in order to sustain the accuracy and longevity of the probes and the cables.

In-Situ, among the largest manufacturers and distributors of water quality monitoring equipment in the world and the makers of the equipment under discussion, told us that by obtaining monthly elevation reading by hand and comparing them to the probes is a very good way to verify that the probes are operating correctly. This tests for equipment water level drift which is the basis for setting a maintenance plan for the instrument as described in the equipment manual.

- b. The transducers should be checked monthly for the first year to ensure they are working properly and then quarterly after that.

PJK and NAR follow In-Situ's operations manual

- c. The monitoring visits should include equipment inspections and documentation that the transducers are in the correct position, have been collecting measurements, that measurements are recording properly, and that the battery life as displayed in the Win-Situ software is sufficient.

PJK and NAR follow In-Situ's operations manual

- d. The transducers should undergo factory maintenance and calibration every year in May and proof of calibration should be submitted to the Town for review.

PJK and NAR follow In-Situ's operations manual

Condition 30: The deepest point of open excavation shall be no deeper than 20-ft above the elevation of the deepest groundwater monitoring well. Upon reaching this threshold, new monitoring wells shall be installed to deeper elevations.

CEI Comments:

- The monitoring wells are currently set at an elevation of 180 feet NAVD, approximately 50 feet below the existing bottom elevation of the quarry (elevation 230 feet NAVD). Based on Condition 30, these existing monitoring wells would ultimately allow for excavation to a depth of 200 ft NAVD. In comparison, most residential bedrock wells in the area are approximately 800 to 1000 feet deep and are therefore set at an elevation of approximately -400 feet to -600 feet NAVD, approximately 580 to 780 feet below the present depth of the quarry monitoring wells.

CEI and the Town were explicitly told that deeper wells will be installed in 2023 and that they will be 50- feet below the depth of the deepest quarry cut level as provided in the mine plan.

- Based on the extensive bedrock fracturing in a multitude of directions (as noted in the 2005 NAR hydrogeological study and discussed above in CEI's comments on Condition 25), and the substantial difference in depth/elevation between the monitoring wells and the depth of bedrock water supply wells in the area, we recommend that the quarry monitoring wells be extended to a depth that is comparable to the deepest existing bedrock water supply wells in the area (i.e., approximately 1000 feet).

This approximately \$200,000+ ask for six new wells and drilling the existing wells to 1,000 feet is entirely without merit and scientific basis. Assessing ground water movement and quality is done best nearest the quarry if it is believed the quarry is somehow negatively impacting groundwater quality. It would be very unusual to impossible for hypothetical quarry related contamination to be at higher levels 1,000 feet down than near the quarry floor. The classic plume is for highest concentrations near the source and declining away. Any water migrating off the quarry site would be easiest and best detected in the existing wells at their current/future depths.

The quarry wells should not be extended any deeper than necessary (within 50 feet of the mine plan final elevation). The suggestion that 1,000-foot-deep wells should be installed is reckless. It is well known that deeper wells have the potential to cause short circuiting of contamination from higher elevations to reach the deeper aquifer. The aquifer has a very low hydraulic conductivity and does not have sufficient vertical gradients to cause the downward flow of contaminants to reach any of the CEI proposed monitoring wells. The water supply well that seems to be CEI's concern (Lunenburg water supply well RW-08G "Keating well") has been groundwater tested for perchlorate and was non-detect. There is no basis for concern for perchlorate. CEI was provided the SDS sheet for blast emulsion used.

The closest town well raw water has also been tested for inorganic parameters including selenium, antimony, arsenic, fluoride, cyanide, cadmium, chromium, thallium, and beryllium and all were non-detect. The only inorganic parameter detected was barium (which is ubiquitous) and had a value of 0.014 mg/l versus a drinking water standard of 2.0 (142 times less than the standard). Therefore, there is no impact from inorganic parameters on the town well. CEI has also recommended sampling for nitrates but, once again, there is no problem with nitrates in the Town's Keating well. The measured value of nitrate in groundwater at this well varies from 0.46 to 0.86 mg/L but the water quality standard is 10 mg/L, much higher. Therefore, the proposed deep wells and suggested monitoring are not necessary and if anything could make a non-existent issue into one, when all water quality standards are already being met.

2. OTHER RECOMMENDATIONS

Additional CEI recommendations and comments that are not specific to a current Special Permit Condition are provided below.

2.1 Additional Water Quality Monitoring

Stormwater discharges from the Keating site in Lunenburg and Lancaster are authorized under a NPDES Multi-Sector General Permit (MSGP). Under the MSGP, monitoring of quarry stormwater effluent is required for the following:

- **Total Suspended Solids:** benchmark concentration of 100 mg/l; quarterly sampling (*Note: TSS in the quarry settling basin is measured with an in-situ instrument. Keating staff stated that water is pumped and discharged only when TSS concentration is below 15 mg/L*)
- **Turbidity:** benchmark concentration of 50 NTU; grab sample required once per year
- **pH:** effluent limitation of 6.0-9.0; grab sample required once per year
- **Polyaromatic Hydrocarbons:** report only (no threshold/benchmark values); biannual sampling

Other similar facilities have discharges (both process wastewater and stormwater) authorized under NPDES Individual Permits which require more extensive monitoring. CEI discussed the NPDES permit authorization for the facility with George Papadopoulos of EPA Region 1, to determine why this facility is permitted under the NPDES MSGP rather than an Individual Permit. Mr. Papadopoulos is the lead EPA staff for the current NPDES Individual Permit authorization for the Keating facility in Acushnet, MA. Key points of the discussion are summarized as follows:

The Acushnet facility – **What does the Acushnet facility have to do with the Lunenburg facility. Has CEI even visited the Acushnet facility?**

- From a NPDES permitting perspective, the Keating Lunenburg/Lancaster facility and operations are similar to the Acushnet facility. Both facilities conduct rock quarrying, aggregate processing, and production of hot mix asphalt.

The CEI discussion is based on hearsay only. Under any reasonable court or fair hearing without all parties present, such discussions should and would be disallowed. No permit conditions can be made on hearsay discussions.

- Mr. Papadopoulos stated that the type of operations and processing conducted at the Lunenburg/Lancaster facility and associated discharges to surface waters would appear to disqualify the facility from obtaining permit authorization under the MSGP.

The conditions for PJK's stormwater discharge permit are based on national standards and they are not less stringent at Lunenburg than elsewhere. The CEI discussion is based on hearsay only. It is not clear what CEI was telling Mr. Papadopoulos' about the Lunenburg operation. The facility does have a stormwater permit and has had a stormwater permit for many years. Nothing has changed. CEI has provided no details about what specific operation they consider that PJK conducts that would disqualify them from qualification under a MSGP stormwater permit. At this point the statements by CEI to Mr. Papadopoulos and others appear unfounded. No letter of correspondence is provided to backup that these were Mr. Papadopoulos' thoughts, nor was he copied on CEI's contentions of what he may or may not have said.

- Mr. Papadopoulos stated that the current MSGP permit authorization could have been approved because applications for coverage under the MSGP do not always get reviewed thoroughly.

Again, hearsay only. The facility has had a MSGP through several permit cycles and the EPA and MassDEP have had plenty of time to review the permit information if they thought there were errors. It is an affront by CEI to indicate that the EPA does not do a proper job of reviewing permits before approving. It is highly unlikely that anybody from EPA and in particular, Mr. Papadopoulos would indicate that they do not do an adequate job of reviewing permits.

- Mr. Papadopoulos stated that EPA staff plan to conduct a site inspection in the near future to determine if an Individual permit will be required for the facility.

Hearsay only and perhaps libelous if CEI indicated that EPA should conduct an inspection at a facility based on providing them inadequate and/or at the very least, inaccurate information. PJK provided all data that was requested, including all requested water quality reports that have been provided to EPA on its DMR site. PJK conducts inspections and record keeping, as required. There is no basis to suggest that PJK is polluting the environment and therefore somehow in need of further costly restrictions and baseless water quality analyses.

Monitoring parameters and associated effluent limitations for Individual Permits are typically established as needed to ensure that state and federal water quality standards are met for the receiving water bodies. Stormwater effluent from the quarry is discharged to a series of Class B, High Quality Waters as defined in Massachusetts Surface Water Quality Standards ([314 CMR 4.00](#)). The flow path from the Quarry Dewatering Discharge (Discharge Point 001) is shown in Figure 1. The Class B Water Quality Standards are the same for all segments of the flow path listed below.

This figure, in another format, was previously provided to the Town by PJK. That is except for the purple line shown in Lake Shirley. While the purple line might be endeavoring to show the general flow path of Easter Brook through the lake it is of no meaning in this instance as no detention times or other typical factors are provided. Moreover, the point of discharge of clean, quarry water that traverses two (2) miles through a multitude of natural wetland resource areas and Easter Brook (with a drainage area that dwarfs that of the quarry) prior to entering Lake Shirley is scarcely worth mentioning again and again.

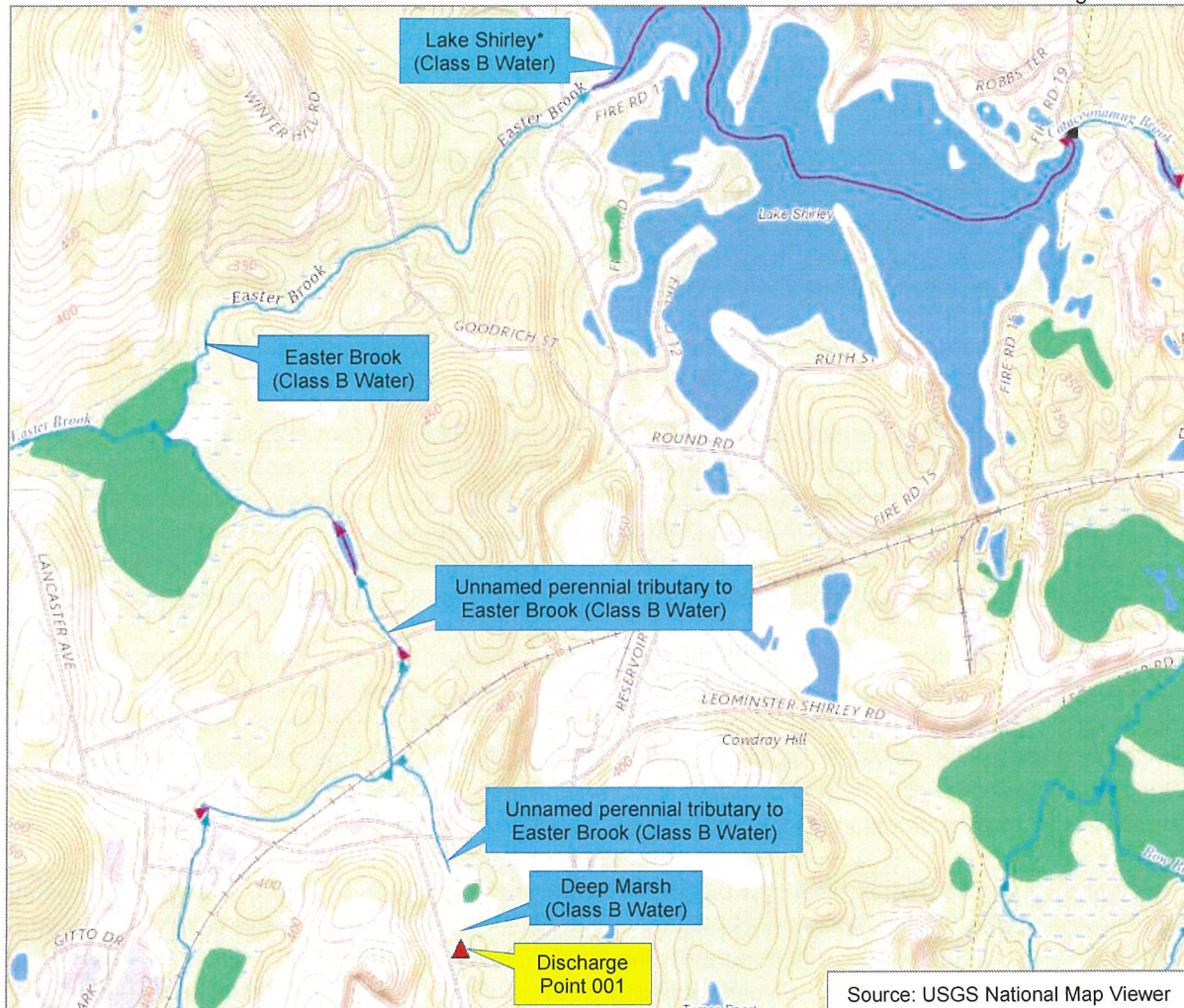


Figure 1: Flow Path from Quarry Dewatering Discharge to Lake Shirley

* Note: Lake Shirley is listed in the Massachusetts 2018/2020 Integrated List of Waters as a Category 5 Impaired Water, with impairments for:

- *turbidity*
- *harmful algal blooms*
- *dissolved oxygen*
- *mercury in fish tissue*
- *non-native aquatic plants*

Based on review of monitoring required for similar facilities in the region, CEI recommends that the Town should consider requiring the additional monitoring parameters discussed in Table 1 as a condition of a future Special Permit authorization.

Please provide the locations/institutions 'of monitoring required for similar facilities in the region.'

The PJK facility has a MSGP, and those monitoring conditions are established nationally. Adding additional monitoring is not based on any scientific reasoning. The MSGP monitoring requirements were purposefully established by the USEPA based on scientific studies and extensive comment and response from various regulatory agencies. The most recent MSGP added a number of sampling requirements based on extensive studies of similar mining operations. It would be inappropriate to modify stormwater monitoring requirements

at the local level based on an unsubstantiated/non-scientific request. MassDEP and USEPA issued the facility permit jointly.

The monitoring request is based on misjudged information such as a request to conduct WET monitoring because of explosives – the only source of potentially unnatural substance in the quarry. However, as was explained, 95-100% of blasting emulsion is vaporized upon blast and non-vaporized nitrogen compounds are unlikely to have any significant impact on a freshwater receiving body. As an example, and to our knowledge, no other quarries discharging to a freshwater wetland system in Massachusetts conduct WET monitoring because of explosives. Why should the PJK quarry conduct nitrate monitoring based on CEI's opinion that industries different from PJK do it? This would be a slippery slope as should a gasoline station have to meet the monitoring limits for a dairy farm or vice versa. In terms of metals, once again, these would have been looked at by the USEPA and were not chosen by them for quarry monitoring.

Table 1: Additional Water Quality Monitoring Recommendations

| Parameter | Discussion/Recommendation |
|---|--|
| Stormwater Effluent Monitoring^{1,2} | |
| Turbidity | <ul style="list-style-type: none"> CEI recommends that more frequent turbidity monitoring should be considered as a condition preceding pumping from the quarry settling basin, with an effluent discharge limit of 25 NTU. This recommendation is based on the Individual Permit for the Keating Acushnet facility, which states “a turbidity value of 25 NTU is consistent with several states that have established numeric water quality criteria for turbidity, including the New England states of Vermont and New Hampshire as well as the turbidity limitations imposed on similar facilities in Massachusetts and New Hampshire.” |
| Whole Effluent Toxicity (WET) | <ul style="list-style-type: none"> Based on use of explosives at the quarry, WET monitoring is recommended once per year. WET evaluates pollutants in the discharge to determine if their additivity, antagonism, synergism, or persistence have potential to cause toxicity. Recommended monitoring requirements include: <ul style="list-style-type: none"> Use daphnid and fathead minnow as the test species Chronic No Observed Effect Concentration (C-NOEC) should be $\geq 100\%$ Acute effects based on LC50 (concentration lethal to 50% of test organisms) should be $\geq 100\%$. |
| Nitrate | <ul style="list-style-type: none"> Because nitrogen-based compounds (ammonium nitrate explosives from Austin Blasting) are used for blasting at the quarry, CEI recommends that monitoring for nitrate should be considered. Although there are no numeric nitrate criteria for NPDES MSGP Subsector J2 (Dimension and Crushed and Nonmetallic Minerals), a benchmark of 0.68 mg/L is recommended based on the NPDES MSGP criteria for Subsector J1 (Sand and Gravel Mining). |
| Total Metals | <ul style="list-style-type: none"> Heavy metals have been detected with quarry discharges at similar sites. CEI recommends an initial (year 1) sampling round for total metals (antimony, arsenic, cadmium, chromium, copper, iron, lead, nickel, selenium, silver, and zinc). Requirements for any additional testing should be based on the initial results. |
| Bedrock Monitoring Wells (annual monitoring for existing and additional recommended bedrock wells) | |
| Nitrate | <ul style="list-style-type: none"> Health concerns are associated with elevated nitrate levels (>10 mg/L) in drinking water. |
| Total Metals | <ul style="list-style-type: none"> Annual monitoring for antimony, arsenic, cadmium, chromium, copper, iron, manganese, lead, nickel, selenium, silver, and zinc. |
| Perchlorate | <ul style="list-style-type: none"> Sampling for perchlorate is recommended due to the use of nitrogen-based explosives at the quarry. The NPDES permit the Keating Acushnet facility states, “Perchlorate may also be present in nitrogen-based explosives as an impurity or contained in detonators up to 4 to 60 milligrams of potassium perchlorate. EPA's Interim Drinking Water Health Advisory for perchlorate is 15 $\mu\text{g/L}$.” |
| pH | <ul style="list-style-type: none"> pH is an inexpensive parameter that can be helpful in identifying if surface waters (with relatively higher pH) are mixing with groundwater (with relatively lower pH) via bedrock fractures. |

Table 1 Notes:

1. Based on CEI's review of operations at the quarry and related stormwater effluent discharges to Discharge Point 001, CEI recommends that additional monitoring is not needed for the following parameters listed for Class B Waters in 314 CMR 4.05(3)(b): pH, dissolved oxygen, temperature, taste and odor, oil and grease, and solids.

It is unclear as to whether CEI is suggesting that EPA-required sampling parameters (i.e., pH, dissolved oxygen, oil and grease and 'solids') be eliminated for discharge water?

2. CEI recommends that some additional monitoring parameters required at similar sites are not applicable to stormwater discharges from the Lancaster/Lunenburg quarry operation. For example, naphthalene monitoring is required at sites where petroleum products are stored, but there are no petroleum products stored within the Keating quarry area.
3. If additional monitoring is required as condition of a future Special Permit, CEI recommends that results should be reported to the Town for review on a quarterly basis. The Town should reevaluate required monitoring frequencies in future Special Permits based on results from the first year of monitoring data.

PJK is required to provide all WQ testing results to USEPA. If a benchmark effluent limitation is exceeded it is automatically 'red-flagged' and depending on the exceedance, the USEPA has strict guidelines and a stepped process that must be met to rectify the situation. These guidelines went through extensive regulatory review and consideration over a multi-year process. Is the Town of Lancaster and or its consultants prepared to or capable of being more scientifically inclined than the USEPA? All of the data is readily available on the USEPA website. This request is merely meant to be one more measure of the myriad of requirements the facility is already required to meet. Moreover, as part of this peer review, all the requested data reports were provided to the Town's consultant.

This is not a landfill as listed by CEI. Landfills require sampling of metals because of the nature of the leachate of a landfill and the landfills components. This is a quarry. Water that enters the quarry from rainfall and groundwater is discharged only as necessary to keep the quarry bottom level from filling in with water. How would the groundwater become tainted with any of these metals and find their way to the perimeter wells? NAR has operated in over 1,000 quarries in the US and Canada and have never come across an aggregate quarry with a metal's issues, unless there are some reasonable explanations, like a landfill next door or the presence of those metals naturally occurring in the rock. This rock is a quartzite. It does not have these rare metals leaching out of it.

pH is analyzed in the surface water leaving the quarry and is consistently within permit parameters of 6.5-9.0. If the surface water is within this range what would make the quarry impact groundwater pH? What is driving this request, there is no proof or otherwise that the quarry pH is acidic or alkaline and the discharge meets the permit limits designed to protect water quality.

2.2 Noise Monitoring

Based on requirements at similar quarry operations, please provide the locations and institutions 'of requirements at similar quarry operations' the Town should consider requiring continuous 24/7 noise monitoring to determine if there are periods when quarry operations result in nuisance noise levels in nearby residential areas. PJK has received no noise complaints from nearby residences, albeit whenever, you put this misconception in people's mind, it is likely that some should be expected soon. Further, why would 24/7 monitoring be suggested as an appropriate edict when PJK's operating hours per the Special Permit are from 7am to 5pm Monday thru Friday (with the ability to operate on Saturday from 8am to 12pm with prior permission of the Town). Such monitoring could be required as either a long-term, ongoing requirement of operations, or as a shorter-term requirement intended to:

1. Identify any time periods and sources of nuisance noise levels; and
Blasting operations are monitored with seismographs and are consistently under State guidelines. The Fire Departments in Lancaster and Lunenburg receive these data. All persons wishing to be on the pre-blast call line are notified well in advance of the blast.
2. Address any identified sources with actions to minimize nuisance noise levels.
No nuisance noise level sources have been identified. Residences are not in the near vicinity of the quarry and as stated operating hours are strictly controlled. A Contractor can build a subdivision and break rock with a hydraulic hammer but PJK needs to do 24/7 noise monitoring?

2.3 Potential Vernal Pools

The ANRAD Peer Review (LEC, 2016) notes the following with regard to two Isolated Vegetated Wetlands (IVWs) delineated with flags I-1 through I-6 and J-1 through J-15:

Both of the IVWs have potential vernal pools, but a definitive determination of vernal pools at this time of the year is difficult. The status of these potential pools should be determined by the Applicant in the Spring of 2017.

Based on communication with Keating staff, a field investigation to confirm the status of these potential vernal pools has not been conducted.

In fact, PJK's response was as follows: 'In reviewing the potential vernal pool(s) locations, these are not in an area we plan to ever enter – we have no need. J-1 thru J-15 is on the opposite side of the transmission corridor and the 150 East of Flag 17 reference, is immediately adjacent to the J series flagging. Again, there is no intent to go into this overall wet area for any reason. Looking thru records, I do not believe a vernal pool Certification was completed and there are no plans to go through the Certification process, at this time. These areas will be left as is, we have no reason to venture any closer in that area. The quarry rim is approximately 800 feet from these areas and will not be expanded further in that direction.'

CEI did not look at this area. The quarry has been operating for 100 years and the potential 'vernal pool' whether it exists or not and may or may not have been present for the 100 years of the quarry operations is not in the vicinity of any PJK operations and will not be going forward. PJK has no intention of examining or certifying areas that are not going to be encroached on its private property.

CEI recommends that a vernal pool investigation should be required as a condition of future permit approval, with field investigations specified for the spring vernal breeding season for obligate vernal pool species. If vernal pool conditions are documented, an application for vernal pool certification should be submitted to the Massachusetts Natural Heritage and Endangered Species Program (NHESP).

Note: The IVW J-series is located in Lancaster. The IVW I-series is located in Leominster, but if certified as a vernal pool would have a portion of its 100-foot buffer zone within Lancaster.

If you have any questions regarding this response, please contact Doug Vigneau, 978-732-3761 or by email at douglas.vigneau@pjkeating.com. PJK, TRC, and NAR would be pleased to meet with the Select Board.

Sincerely,
PJ Keating Company

Douglas E. Vigneau

Douglas E. Vigneau, CEP, ENV-SP
Environmental Compliance Manager

cc: Andrew Smyth, PG, Principal Consultant, TRC
Gary Hunt, VP, Air Sciences Technical Director, TRC
Michael Wright, PG, North American Reserve
Robert Robinson, VP, Aggregate Operations, PJK
Kayla M. Larson, PE, Project Manager, Tighe & Bond



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www.ceiengineers.com

May 23, 2022

Town of Lancaster Select Board
Attn: Kate Hodges, Town Administrator
701 Main Street
Lancaster, MA 01523

**RE: P.J. Keating Company
Peer Review of Special Permit to Remove Earth Products**

Dear Ms. Hodges,

As requested by the Lancaster Select Board, Comprehensive Environmental Inc. (CEI) has provided a technical review of the P.J. Keating Company (Keating) facility located at 998 Reservoir Road in Lunenburg (the Site) and associated performance standards and monitoring as required per the Site's current Special Permit to Remove Earth Products (Special Permit; issue date of March 7, 2022).

CEI staff conducted a site walk with Keating staff on April 22, 2022 to observe conditions in the vicinity of the quarry operation, associated monitoring wells, the flow path of the quarry dewatering process, and other Site features relevant to the Special Permit. In addition to the site walk, CEI's review is based on the following documents provided by the Town and Keating:

- P.J. Keating Company, Town of Lancaster - Special Permit to Remove Earth Products (permit issue date March 7, 2022)
- P.J. Keating Company, Town of Lancaster - Special Permit to Remove Earth Products (permit issue date January 25, 2020)
- P.J. Keating Company, Town of Lancaster - Special Permit to Remove Earth Products (permit issue date January 25, 2005)
- Quarry Closure Plan Circa 2042 (S.J. Mullaney Engineering, Inc., rev. date 2/17/2022)
- SWPPP Figures 1-4 (TRC, January 2022)
- Site Plan – Drainage from Quarry to Lake Shirley (TRC, February 2022)
- Photo Log – Easter Brook Entering Lake Shirley (P.J. Keating, 2/24/2022)
- P.J. Keating Mining Plan 2022-2023 (P.J. Keating, 1/28/2022)
- Aerial Image of Quarry Seismograph Locations (2/22/2022)
- Lunenburg's Water System PWS ID # 2162000 (from MassDEP Online Map Viewer)
- Review of Application for Special Permit – Update (Tighe & Bond, 2/1/2022)
- Aerial Image of Extent of Existing Fence Around Quarry (Google Earth image)
- P.J. Keating Existing Conditions Plan (S.J. Mullaney Engineering, Inc., 1/26/2022)
- Response to Resident Questions and Concerns, Application for Special Permit Earth Products Removal, P.J. Keating Company (Tighe & Bond, 2/28/2022)
- Wetland Assessment, P.J. Keating Facility (Lucas Environmental, 11/30/2015)
- ANRAD Peer Review (LEC Environmental, 11/30/2016)

- Hydrogeologic Assessment of the Marble Quarry, P.J. Keating Company, Lancaster, MA (North American Reserve, June 2005)
- Hydrogeologic Monitoring Reports (2019, 2020; North American Reserve)
- Review of 2019 Groundwater Monitoring Report (Tighe & Bond, 9/16/2020)
- Quarterly Inspection Reports (2019, 2020, 2021; Tighe & Bond)
- Stormwater Pollution Prevention Plan (SWPPP), P.J. Keating Company, Lunenburg, MA Facility (TRC, February 20220)
- Quarterly Laboratory Analytical Reports and Year End Reports to EPA (2019-2022)

1. SPECIAL PERMIT CONDITIONS

Special Permit Conditions are presented verbatim below in **blue font** followed by related CEI review comments. The numbering below is based on the Condition numbering in the Special Permit. Conditions not listed below did not have suggested revisions or comments from CEI.

Condition 2. The shoreline of the end-use quarry pond and all disturbed non-bedrock surfaces shall be restored with a minimum depth of nine inches of loam which shall be capable of supporting grass growth. These areas shall be restored upon completion of the earth removal authorized by this special permit. These areas shall be hydroseeded and the planted area shall be protected from erosion during the establishment period using sound conservation practices. Areas that wash out shall be repaired immediately. Trees or shrubs of prescribed species shall be planted to provide screening and reduce erosion during the establishment period.

CEI Comments:

- A minimum width of 25 feet is recommended for the required loam and vegetation establishment around the perimeter of the quarry pond. This width is based on (1) the assumption that end use quarry pond will become a wetland resource area protected per 310 CMR 10.00 and the Lancaster Wetlands Protection Bylaw after the quarry has been inactive for five or more consecutive years, and (2) establishment of a vegetated buffer consistent with the Bylaw 25-foot no disturb zone.
- A specification for loam should be required to ensure good quality planting conditions, including a minimum organic content of 4-6% by weight.
- Planted trees and shrubs should be species native to the Northeastern U.S. and from a list submitted by the Applicant and approved by the Town. In areas where trees or shrubs will be planted, a minimum topsoil depth of 18 inches is recommended. An equal depth of subsoil is also recommended to allow for an adequate rooting zone for woody species. Spacing for trees and shrubs should be specified (e.g., 8-feet on center for tree species, 5-feet on center for smaller shrub species).

Condition 5: Dust Control measures shall be undertaken as specified in the approved plans.

CEI Comments:

- There are no approved plans associated with the Special Permit that specify dust control measures. Dust control appears to be an ongoing challenge for the portion of Fort Pond Road (Route 70) near the quarry, and inclusion of a plan and/or a detailed narrative specifying dust control measures is recommended.

As a reference, CEI reviewed the current Storm Water Pollution Prevention Plan (SWPPP) associated with the National Pollutant Discharge Elimination System (NPDES) permit for the Site. Although no reference to dust control measures is included in the SWPPP plans, the SWPPP document includes the following narrative:

3.7.7 Dust Generation and Vehicle Tracking of Industrial Materials

Dust generation and vehicle tracking activities potentially occur in each of the Drainage Areas at the facility. The Lunenburg facility maintains dust control by pumping water from the detention basins and using it for dust suppression as necessary. A mobile water truck is also used at the facility to wet down on-site roads to minimize the amount of dust generated by vehicle traffic and the transport and deposition of sediment on surrounding public roadways. Locations where vehicles enter and exit the site are inspected regularly for sediment that has been tracked off site. If sediment has been tracked off site, the paved surfaces are swept.

- Based on dust control measures required at similar quarry operations, the Town should consider requiring the following:
 - Dust monitoring (e.g., by installation of a high-volume air sampler) to identify periods when/if fugitive dust conditions warrant additional control actions to protect public health.
 - Additional control actions could include installation of a dust suppression system for haul trucks along the quarry interior roadways, such as a wheel wash system comprised of roadside sprinklers which spray trucks as they pass by.

Condition 25: The permit holder shall continue to undertake a hydrogeologic study that shall continue for the duration of the earth product removal operation. To facilitate the continuation of the long term hydrogeologic monitoring program the permit holder shall collect a minimum of monthly measurements of the groundwater water table and behavior in the monitoring wells, continuous weather station measurements, monthly stormwater flow measurements for the lower quarry and upper quarry flow meters, and monthly measurements of the sump water elevation for the duration of the earth product removal operation. Pressure transducers shall be implemented within groundwater monitoring wells to monitor groundwater water table behavior at hourly increments. Upon failure of any pressure transducers, the permit holder has 90-days to replace the equipment. These measurements shall be provided to the Board of Selectmen quarterly, or more frequently as requested by the Board of Selectmen, and these measurements shall be reviewed by the Town's consultant as requested by the Town. All costs for outside consultant services used for inspection, data review, comment, and recommendation purposes shall be paid for by the permit holder. The hydrogeologic study shall be modified, when needed, based on recommendations by the Board's consultant.

- a. New hourly reporting pressure transducers shall be replaced in all groundwater monitoring wells by April 15, 2022.

CEI Comments:

1. Hydrogeologic Study

In addition to ongoing monitoring of groundwater levels and stormwater flow volumes, Keating conducted a hydrogeologic study in 2005 (NAR) to partially address this permit condition. This study focused on a review of the general bedrock geology and a review of existing bedrock wells in the area. The 2005 NAR study concludes that the existing bedrock wells have fairly uniform characteristics based upon specific capacity calculations and that any higher yielding bedrock wells are likely influenced by proximate surface water bodies. One exception was existing bedrock well

#33, which had the highest yield of the sample group, likely associated with its location along the Wekepeke Fault System. Final recommendations of the 2005 NAR study were to install four bedrock monitoring wells, drilled to the permitted depth of quarry excavation. The recommended well locations were based on installing one in each direction (north, south, east, west) with the north/south monitoring wells located along the Wekepeke fault line.

The conclusions and recommended monitoring plan of the 2005 NAR study do not fully correlate with the geologic features and data limitations identified in the study. Specifically, we note the following key issues:

- The 2005 NAR study notes that the landfill site in general has a “*complicated array of jointing*” and “*near vertical fractures*” as observed at several of the NAR field reconnaissance locations. These features are due to the quarry site being transected by the Wekepeke Fault System. This extent of fracturing would logically increase the potential for groundwater movement in a multitude of directions.
- The 2005 NAR study evaluated existing bedrock wells in the vicinity of the quarry, classifying the wells as above or below average yield (i.e., 10 gallons per foot of drawdown) based on readily available data from the well drillers. Based on the location of most of the high yield wells (proximate to a lake or pond), NAR inferred that the higher well yields were influenced by surface water, even those these wells were approximately 500 feet deep. Location alone does not necessarily mean there is any connection between a surface water body and a 500-foot-deep bedrock well, as it is common for surface water bodies to be “perched” and protected by a bottom impervious (or semi-impervious) layer.
- The 2005 NAR study used well drilling records for the analysis, most likely from the date of installation for each bedrock well. These well drilling records are of limited value for determining regional groundwater flow patterns, since they are typically performed with the sole purpose of confirming sufficient water quantity and quality for a residential dwelling. A more detailed pump test (e.g., pumping to determine sustained yield) would be required as part of a hydrogeological study to determine overall regional groundwater flow patterns.
- The 2005 NAR study specifically notes that the “*quarry is generally very dry*”, most likely due to the “*strongly developed fracture system...allowing infiltration and recharge*” associated with steeply dipping cleavage planes that can be near vertical in some locations.

These observations and bedrock features appear to provide a potential viable path for surface water to flow deep into the bedrock and then travel along the extensive fracturing in a multitude of directions. The limited locations and depths of the four existing bedrock monitoring wells are not sufficient to identify potential impacts of the quarry operation on groundwater flows and water quality in the area.

- CEI recommends that additional bedrock monitoring wells be installed around the perimeter of the quarry, as follows:
 - Ideally, additional monitoring wells would be located along identified surface lineaments that reflect sub-surface bedrock fractures;
 - Alternatively, new wells could be located at regularly spaced intervals along the quarry perimeter. If this approach is used, CEI recommends installation of six wells at approximate 550-foot intervals along the southern/eastern quarry perimeter (from the southern tip of the quarry to the intersection of the quarry haul road and Fort Pond Road).

- CEI also recommends that water samples be collected and analyzed from these bedrock monitoring wells on an annual basis, to allow for assessment of any potential impacts of the quarry operation on off-site bedrock water supply wells. *See Section 2 for a list of recommended monitoring parameters.*

2. Monitoring Equipment

During the site walk on April 22, 2022, NAR stated that they will be installing In-Situ Level TROLL® 400 pressure transducers in all of the monitoring wells with the ability to connect to the instruments with Bluetooth for profiling and downloading data. NAR stated that the transducers will be set to monitor groundwater water table behavior at hourly increments and they will collect data using a cloud storage service and complete a quality control check before they are sent to the town for review. These transducers have a battery life of 10 years or 2 million readings. The Bluetooth capabilities will allow for a quicker and easier download of data and will remove some likelihood for human error and damage to transducers as a result of removing the instrument to download readings, clear the device, and reinstall the instrument.

Scheduled maintenance of these instruments is critical to sustain their accuracy and longevity, and should include the following:

- a. Scheduled maintenance should be required as described in the In-Situ Operator's Manual in order to sustain the accuracy and longevity of the probes and the cables.
- b. The transducers should be checked monthly for the first year to ensure they are working properly and then quarterly after that.
- c. The monitoring visits should include equipment inspections and documentation that the transducers are in the correct position, have been collecting measurements, that measurements are recording properly, and that the battery life as displayed in the Win-Situ software is sufficient.
- d. The transducers should undergo factory maintenance and calibration every year in May and proof of calibration should be submitted to the Town for review.

Condition 30: The deepest point of open excavation shall be no deeper than 20-ft above the elevation of the deepest groundwater monitoring well. Upon reaching this threshold, new monitoring wells shall be installed to deeper elevations.

CEI Comments:

- The monitoring wells are currently set at an elevation of 180 feet NAVD, approximately 50 feet below the existing bottom elevation of the quarry (elevation 230 feet NAVD). Based on Condition 30, these existing monitoring wells would ultimately allow for excavation to a depth of 200 ft NAVD. In comparison, most residential bedrock wells in the area are approximately 800 to 1000 feet deep and are therefore set at an elevation of approximately -400 feet to -600 feet NAVD, approximately 580 to 780 feet below the present depth of the quarry monitoring wells.
- Based on the extensive bedrock fracturing in a multitude of directions (as noted in the 2005 NAR hydrogeological study and discussed above in CEI's comments on Condition 25), and the substantial difference in depth/elevation between the monitoring wells and the depth of bedrock water supply wells in the area, we recommend that the quarry monitoring wells be extended to a depth that is comparable to the deepest existing bedrock water supply wells in the area (i.e., approximately 1000 feet).

2. OTHER RECOMMENDATIONS

Additional CEI recommendations and comments that are not specific to a current Special Permit Condition are provided below.

2.1 Additional Water Quality Monitoring

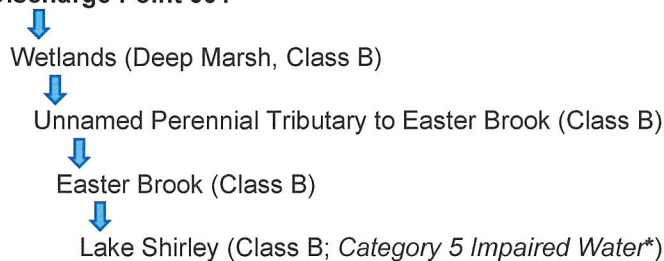
Stormwater discharges from the Keating site in Lunenburg and Lancaster are authorized under a NPDES Multi-Sector General Permit (MSGP). Under the MSGP, monitoring of quarry stormwater effluent is required for the following:

- **Total Suspended Solids:** benchmark concentration of 100 mg/l; quarterly sampling (*Note: TSS in the quarry settling basin is measured with an in-situ instrument. Keating staff stated that water is pumped and discharged only when TSS concentration is below 15 mg/L*)
- **Turbidity:** benchmark concentration of 50 NTU; grab sample required once per year
- **pH:** effluent limitation of 6.0-9.0; grab sample required once per year
- **Polyaromatic Hydrocarbons:** report only (no threshold/benchmark values); biannual sampling

Other similar facilities have discharges (both process wastewater and stormwater) authorized under NPDES Individual Permits which require more extensive monitoring. Monitoring parameters and associated effluent limitations for Individual Permits are typically established as needed to ensure that state and federal water quality standards are met for the receiving water bodies.

Stormwater effluent from the quarry is discharged to a series of Class B, High Quality Waters as defined in Massachusetts Surface Water Quality Standards ([314 CMR 4.00](#)). The flow path from the Quarry Dewatering Discharge (Discharge Point 001) is listed below and shown in Figure 1. The Class B Water Quality Standards are the same for all segments of the flow path listed below.

Discharge Point 001



* Lake Shirley is listed in the [Massachusetts 2018/2020 Integrated List of Waters](#) as impaired for:

- *turbidity*
- *harmful algal blooms*
- *dissolved oxygen*
- *mercury in fish tissue*
- *non-native aquatic plants*

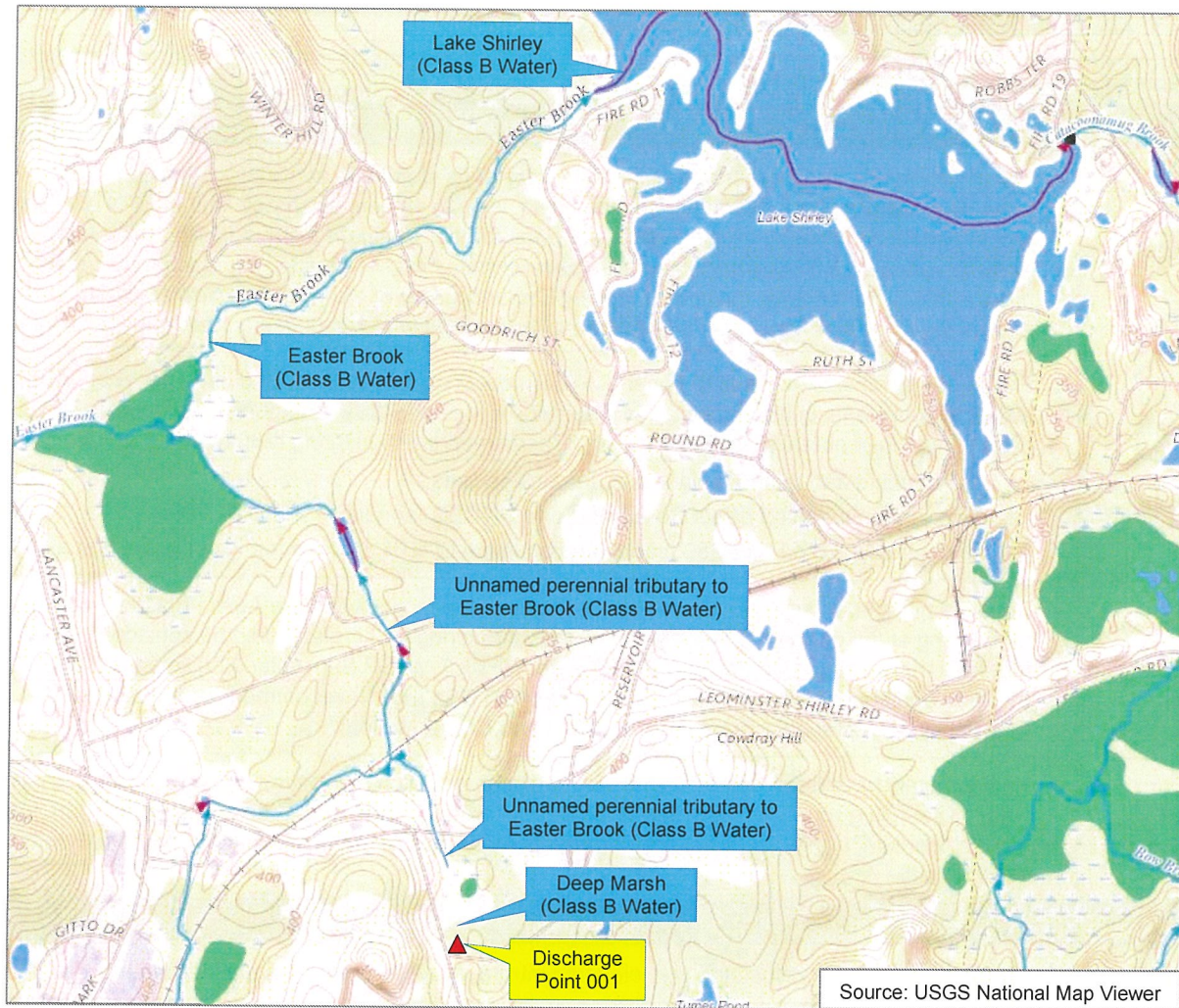


Figure 1: Flow Path from Quarry Dewatering Discharge to Lake Shirley

Based on review of monitoring required for similar facilities in the region, CEI recommends that the Town should consider requiring the additional monitoring parameters discussed in Table 1 as a condition of a future Special Permit authorization.

Table 1: Additional Water Quality Monitoring Recommendations

| Parameter | Discussion/Recommendation |
|---|--|
| Stormwater Effluent Monitoring^{1,2} | |
| Turbidity | <ul style="list-style-type: none"> CEI recommends that more frequent turbidity monitoring should be considered as a condition preceding pumping from the quarry settling basin, with an effluent discharge limit of 25 NTU. This recommendation is based on the Individual Permit for the Keating Acushnet facility, which states "a turbidity value of 25 NTU is consistent with several states that have established numeric water quality criteria for turbidity, including the New England states of Vermont and New Hampshire as well as the turbidity limitations imposed on similar facilities in Massachusetts and New Hampshire." |
| Whole Effluent Toxicity (WET) | <ul style="list-style-type: none"> Based on use of explosives at the quarry, WET monitoring is recommended once per year. WET evaluates pollutants in the discharge to determine if their additivity, antagonism, synergism, or persistence have potential to cause toxicity. Recommended monitoring requirements include: <ul style="list-style-type: none"> Use daphnid and fathead minnow as the test species Chronic No Observed Effect Concentration (C-NOEC) should be $\geq 100\%$ Acute effects based on LC50 (concentration lethal to 50% of test organisms) should be $\geq 100\%$. |
| Nitrate | <ul style="list-style-type: none"> Because nitrogen-based compounds (ammonium nitrate explosives from Austin Blasting) are used for blasting at the quarry, CEI recommends that monitoring for nitrate should be considered. Although there are no numeric nitrate criteria for NPDES MSGP Subsector J2 (Dimension and Crushed and Nonmetallic Minerals), a benchmark of 0.68 mg/L is recommended based on the NPDES MSGP criteria for Subsector J1 (Sand and Gravel Mining). |
| Total Metals | <ul style="list-style-type: none"> Heavy metals have been detected with quarry discharges at similar sites. CEI recommends an initial (year 1) sampling round for total metals (antimony, arsenic, cadmium, chromium, copper, iron, lead, nickel, selenium, silver, and zinc). Requirements for any additional testing should be based on the initial results. |
| Bedrock Monitoring Wells (annual monitoring for existing and additional recommended bedrock wells) | |
| Nitrate | <ul style="list-style-type: none"> Health concerns are associated with elevated nitrate levels (>10 mg/L) in drinking water. |
| Total Metals | <ul style="list-style-type: none"> Annual monitoring for antimony, arsenic, cadmium, chromium, copper, iron, manganese, lead, nickel, selenium, silver, and zinc. |
| Perchlorate | <ul style="list-style-type: none"> Sampling for perchlorate is recommended due to the use of nitrogen-based explosives at the quarry. The NPDES permit the Keating Acushnet facility states, "Perchlorate may also be present in nitrogen-based explosives as an impurity or contained in detonators up to 4 to 60 milligrams of potassium perchlorate. EPA's Interim Drinking Water Health Advisory for perchlorate is 15 $\mu\text{g/L}$". |
| pH | <ul style="list-style-type: none"> pH is an inexpensive parameter that can be helpful in identifying if surface waters (with relatively higher pH) are mixing with groundwater (with relatively lower pH) via bedrock fractures. |

Table 1 Notes:

- Based on CEI's review of operations at the quarry and related stormwater effluent discharges to Discharge Point 001, CEI recommends that additional monitoring is not needed for the following parameters listed for Class B Waters in 314 CMR 4.05(3)(b): pH, dissolved oxygen, temperature, taste and odor, oil and grease, and solids.

2. CEI recommends that some additional monitoring parameters required at similar sites are not applicable to stormwater discharges from the Lancaster/Lunenburg quarry operation. For example, naphthalene monitoring is required at sites where petroleum products are stored, but there are no petroleum products stored within the Keating quarry area.
3. If additional monitoring is required as condition of a future Special Permit, CEI recommends that results should be reported to the Town for review on a quarterly basis. The Town should reevaluate required monitoring frequencies in future Special Permits based on results from the first year of monitoring data.

2.2 Noise Monitoring

Based on requirements at similar quarry operations, the Town should consider requiring continuous 24/7 noise monitoring to determine if there are periods when quarry operations result in nuisance noise levels in nearby residential areas. Such monitoring could be required as either a long-term, ongoing requirement of operations, or as a shorter-term requirement intended to:

1. Identify any time periods and sources of nuisance noise levels; and
2. Address any identified sources with actions to minimize nuisance noise levels.

2.3 Potential Vernal Pools

The ANRAD Peer Review (LEC, 2016) notes the following with regard to two Isolated Vegetated Wetlands (IVWs) delineated with flags I-1 through I-6 and J-1 through J-15:

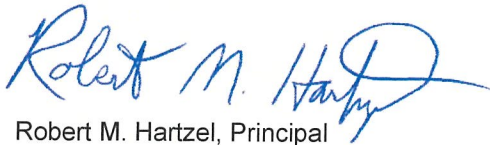
Both of the IVWs have potential vernal pools, but a definitive determination of vernal pools at this time of the year is difficult. The status of these potential pools should be determined by the Applicant in the Spring of 2017.

Based on communication with Keating staff, a field investigation to confirm the status of these potential vernal pools has not been conducted. CEI recommends that a vernal pool investigation should be required as a condition of future permit approval, with field investigations specified for the spring vernal breeding season for obligate vernal pool species. If vernal pool conditions are documented, an application for vernal pool certification should be submitted to the Massachusetts Natural Heritage and Endangered Species Program (NHESP).

Note: The IVW J-series is located in Lancaster. The IVW I-series is located in Leominster, but if certified as a vernal pool would have a portion of its 100-foot buffer zone within Lancaster.

If you have any questions regarding this review letter, please contact Bob Hartzel at 508-281-5160.

Sincerely,



Robert M. Hartzel, Principal
Comprehensive Environmental, Inc.

