



APPROVED

**LANCASTER SELECT BOARD
Meeting Minutes
of June 6, 2022**

Nashaway Meeting Room, 2nd Floor, Prescott Building, 701 Main Street, Lancaster MA

I. CALL TO ORDER

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

Join Zoom Meeting

<https://us01web.zoom.us/j/82938443432>

Meeting ID: 829 3844 3432

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

II. APPROVAL OF MEETING MINUTES

Ms. Turner moved to approve the meeting minutes of April 20 and May 2, 2022. Mr. Allison seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Abstain; Alexandra W. Turner, Aye. Approved, [2-0-1].*

Ms. Turner moved to approve the Regular Meeting minutes of May 16, 2022, and the Special Meeting Minutes of May 23, 2022. Mr. Allison seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

III. SCHEDULED APPEARANCES & PUBLIC HEARINGS

- PJ Keating Permit Peer Review Report* - Comprehensive Environmental (CEI) – Postponed to Select Board Meeting of June 15, 2022

The Town has received the initial peer review study from CEI. Ms. Hodges has forwarded the report to PJ Keating, and it is in the Select Board packets and posted online. PJ Keating has responded, and their notes are available online. She recommends that to create a robust meeting that it would be good to have all parties present, including Tighe & Bond. There will be opportunities for the Board to ask questions. Ms. Hodges has received emails from citizens on this topic; people want to know if there will be an opportunity for citizens to participate in questions. Ms. Hodges has replied to residents that if they have questions, they are welcome to submit them in writing to the Board prior to the meeting.

Mr. Allison noted that this topic will not be complete in a single meeting, so there will be time for the public to submit questions.

IV. BOARD, COMMITTEE, AND DEPARTMENT REPORTS – NONE

V. PUBLIC COMMENT PERIOD

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

Mr. Allison offered the first public comment. At a previous meeting he offered a free car wash to any student who could beat him in a recent road race. He was disappointed that only one student in Lancaster was able to beat him, so he will be washing that family's truck.

Mr. Allison recognized Dave Carr 71 White Tail Lane, who was outside the building and the doors were locked. Mr. Kerrigan let him in.

Mr. Allison recognized Cara Sanford, 350 Bull Run Road, who stated:

"I appreciate CEI's rigor with their PJ Keating peer review. The safety and health of the residents needs to be paramount. The PJ Keating facility in Lunenburg was fined 30K in 2018 by Mass DEP and they are under a current consent order. The federal EPA fined the sister facility in Acushnet \$120K in 2017. The Acushnet Board of Health appears to have shut down that asphalt plant and they are under a cease and desist. The violations in Lunenburg were related to inadequate dust control, air pollution items, and co-mingling of process water with groundwater discharge. I have sent SB members these public documents. My point is that PJ Keating's challenges with compliance warrant more rigorous monitoring and CEI can do this. Rather than wait on residents to make complaints, we need to expect better behavior from PJ Keating. "

Mr. Allison recognized Greg Jackson, 40 Farnsworth Way. Mr. Jackson had comments on the Select Board Policies and Procedures on Public Comment, citing Section 4-23, Relations with Citizens. He stated that if the Board is considering matters of citizen concern at a regular meeting, the public will be allowed to ask questions and make statements relative to those matters, and that while public comments are at the discretion of the Board, they can be allowed by the Chair or by request of any other member of the Board. He said that furthermore, this document states that all questions and complaints are to be answered promptly, by the Chair or the Town Administrator, and when appropriate, any issues requiring further attention may be referred for inclusion in the next meeting agenda. Mr. Jackson stated, *"I would suggest that the Board take a more responsive approach to public comment by consistently following its' established Policies and Procedures so residents' concerns are not ignored or left unanswered.... Residents often bring timely insights or needed clarification to the discussion."* And *"contrary to its Policies and Procedures, the Board has also adopted the practice of allowing public comment only during the Public Comment agenda item. Residents are typically not recognized at any other time during the meeting. This practice limits residents' participation in matters before the Board to only those questions and*

concerns that can be anticipated in advance of the meeting.” He went on to say this policy was pertinent to discussion of PJ Keating and requested a response from each of the Board members.

Mr. Allison recognized Carol Jackson, 40 Farnsworth Way. Ms. Jackson said, *“That is a good leeway [sic] into my question. I never seem to get answers to my emails written to the Select Board, so I feel it’s falling on blocked ears. Any of my questions have not been answered, or my concerns, whether it’s through public comment or through email. So what good is public comment if we don’t get any responses or emails if we don’t get any responses. It’s not a good way to run a Board or a Town. So, to piggyback off Greg’s comments, I think ignoring the citizens unless it’s somebody maybe you like, I don’t know. It’s just not a good way or a comfortable way for people to feel their concerns are being addressed. Thank you.”*

Mr. Allison recognized Rob Zidek 103 Kaleva Road. Mr. Zidek wanted to follow up on what the previous two speakers said. He said that there have been some excellent meetings with the Affordable Housing Trust, the Economic Development Committee, and the Planning Board, and the reason that they work well is that they learn from each other; when a topic comes up, some members of the public have done lots of research and care about the Town, and it’s very helpful. He encourages the Select Board to follow suit.

Mr. Kerrigan stated that he has not received any emails that he has not responded to and encouraged Ms. Jackson to email him at the address on the Town website. Ms. Turner said that public comments were very valuable and that residents should keep them coming, although it is not process to comment in the same meeting.

VI. TOWN ADMINISTRATOR’S REPORT

- **Background on Zoning Board of Appeals (ZBA) 5 year appointment background**

Ms. Hodges explained that at a recent meeting there were questions about a five year appointment to the Zoning Board of Appeals (ZBA). She explained that she has reviewed the Town code and MGL, and that this is a five year appointment. She looked back at year past, and this has always been a five year term. There may be some confusion because there have been shorter appointments in the past, but those would be filling an unexpired term, so the Board should be clear to appoint this evening.

- **Update on the Government Study Committee**

Three residents have indicated interest. The reason for the definition of nine members is that if following their study, the Committee decides to pursue a Charter, MGL calls for a nine member committee to create a charter, so this would be a natural segue. If nine people aren’t interested in serving on the Government Study Committee, this will need to be looked at again. Ms. Hodges notes that there needs to be a Select Board designee; Mr. Kerrigan indicated that he would be interested in serving. Ms. Hodges recommends waiting until the application deadline before discussing changing the number of members.

- **DRAFT Budget Calendar**

Ms. Hodges reported that she met with Finance Committee Chair Susan Smiley last Friday and that it was a productive meeting about how to have a more robust and intuitive budget process. Ms. Hodges was able to share with Ms. Smiley a draft of the calendar she is working on and that she hopes to bring to the Board at the next regularly scheduled meeting. Essentially this calendar has work starting with the capitol budget in July, with budget instructions to departments in August, to start the process of having a draft for public discussion sometime in September through October.

Ms. Hodges would like the Board to have a discussion about having at least one public forum prior to the Annual Town Meeting. This would allow people to see what the budget drivers are, to see a presentation of everything proposed with some dollars attached. She will be working with the Finance Director. Additionally, Ms. Hodges reported that she has heard from a lot of department heads that they do not often receive a budget after the first of the year, so it will be important to fix this.

Ms. Turner clarified that the process will also focus on revenues. Mr. Allison expressed concern that the School District budget is not available until very late in the Town's budget process. Ms. Hodges replied that she has already met with the School Superintendent and hopes to improve communication between the School District and the Town so that the final school budget does not present any surprises.

Ms. Turner stated that there used to be Tri-Town meetings so that all the Select Boards and Finance Committees would meet jointly with the School Department to hash out budgetary issues; Ms. Hodges notes that this happens on a regular basis on a Town Administrator level.

- **Town response to Capital Group 40B Proposal, letter sent to MassHousing 5/26/22**

Ms. Hodges reported that the letter was sent to MassHousing on 5/26/22, and they confirmed receipt within hours. The Town is now awaiting their response. Today a response was received from MHCD response on the Smart Growth Zoning, with a lot of documentation, the article, and the Zoning Map. This has been loaded onto the town website and shared with the Planning Board, the Lancaster Affordable Housing Trust (LAHT), and the ZBA. Ms. Hodges extended thanks to Victoria Petracca and members of the LAHT.

VII. ADMINISTRATION, BUDGET, AND POLICY

- 1. **Economic Development Committee – Review terms and assignments**

Mr. Allison noted that the Economic Development Committee was made a standing committee at Town Meeting, so as the appointing authority, the Select Board now needs to trim two persons from the existing committee. There are currently seven members and there need to be five. Ms. Turner suggested that persons whose terms expire not be re-appointed; Mr. Allison noted that there are three members whose terms will expire June 30, 2022.

Mr. Kerrigan asked for some background on the formation of this committee. Mr. Allison said that in his opinion he is looking for members who wish to take a path forward on economic development; he hopes that this committee will support bringing options forward to Town Meeting to allow citizens to vote. Mr. Allison praised the job that Phil Eugene has done as Chair. Mr. Kerrigan asked that the Board table this discussion so that she can go back through previous minutes and get a better feel for this committee. Ms. Turner would like to see a committee with diverse opinions so that by the time it gets to the citizens all issues have been worked through.

2. Discuss date for joint Planning Board/Select Board meeting regarding appointment for open Planning Board seat

Mr. Allison reports that he has been working with the Planning Board Chair, Mr. Mirabito, and that the suggested date, 6/13, will not work. Mr. Kerrigan suggested that an hour before the PJ Keating meeting might have a similar audience; Mr. Allison said that if the appointment did not include public comment, then it should be able to be completed in an hour. Ms. Turner in her role as Planning Board Liaison offered to assist with scheduling.

Mr. Allison proposes that the agenda include the Planning Board's plan on revising the Town's Master Plan; Discuss North Lancaster Settlement Agreement and any impact it currently has on the Planning Board scheduling public hearings; Discuss the Planning Board's plans on scheduling public hearing for the Enterprise re-zone; filling Planning Board opening. Mr. Kerrigan suggested taking these topics in reverse order.

Mr. Allison recognized Roy Mirabito, Chair of the Planning Board. Mr. Mirabito asked if the procedure for appointing a member to the Planning Board will be the same as last time, and if there will be questions posed in advance to the applicants. Mr. Allison has been reaching out to Town Counsel to make sure appropriate laws, procedures, and guidelines are followed. The 15th has been proposed if it will work for all parties. Mr. Mirabito confirmed that all Planning Board members are available on the 15th. Mr. Allison will meet offline with Ms. Hodges to schedule the meeting.

3. Social Media Policy Update – Vote may be taken

Mr. Allison moved to assign ownership of the Social Media policy to the Town Administrator. Mr. Kerrigan seconded. Mr. Allison explained that he made this motion because this is a business function and needs to be developed and maintained by the Town Administrator, that the role of the Select Board would be to bless the policy but not to engage in the details. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

4. Discussion and Motion on the following:

- a. Delegation of Personnel Authority to Town Administrator

Mr. Allison moved to assign the following power to the Town Administrator pursuant to Massachusetts General Law (MGL) Chapter 41, Section 23A, to appoint and remove, including those subjects to Civil Service laws and collective bargaining agreements, as applicable, all Town employees who the Select Board acts as appointing authority. Mr. Kerrigan seconded for purposes of discussion. Mr. Allison explained that it makes it challenging if the Select Board is the appointing authority for employees who report to the Town Administrator, especially when there is not an HR department. An example might be the Town Clerk, where the reporting structure in the past has been unclear. It also blurs the line as to who is responsible for progressive discipline or for coaching; when the Select Board is in charge of discipline it would have to be called in Executive Session, with the level of publicity that comes along with that. Ms. Hodges explained that in terms of being a “respectful employer” much of this could be handled in a less public way.

Mr. Kerrigan had questions regarding how this applies to Civil Service and Union employees. Ms. Hodges notes that the Union contracts do not actually speak to the board but align more closely with this motion.

Mr. Kerrigan would like more time to consider this. Ms. Turner noted that the Town has a personnel management bylaw, which should either be adhered to, modernized, or abolished. She stated that the bylaw speaks to progressive discipline. Ms. Hodges explained that the Personnel Code that exists is extremely problematic for the Town in that it is both antiquated and overly specific. She states that this needs to be dealt with quickly, and that it protects neither the employee or the Town. Mr. Allison asked who this motion would include. Ms. Hodges explained that this would apply to any employee for whom the Select Board is the appointing authority. For example, it would not apply to the Library Director who is appointed by the elected Library Board of Trustees.

Mr. Allison noted that according to the Personnel bylaws, in the absence of a Personnel Board, authority falls upon the Select Board. Ms. Hodges explained that in most towns with a Town Administrator form of government, there is a Personnel Board made up of a member of the Select Board, a member of the public, a Union staff member, a member of the Professional Staff, and an at-large member.

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

b. Delegation of Contract Administration and Signatories to Town Administrator

Mr. Allison moved for the Select Board to assign the following power to the Town Administrator pursuant to Massachusetts General Law (MGL) Chapter 41, Section 23A, the full authority to negotiate, sign, and administer contracts, agreements, and other instruments, including but not limited to public works contracts, architecture and engineering contracts, agreements, memorandum of understanding of other government agencies, permit documents, brand documents, environmental review documents, enforcement documents, and amendments and change orders for town projects. Further,

the Board delegates to the Town Administrator the authority to execute agreements, reports, and other town business, submittals relating to but not limited to, grant applications, State Aid, State and/or Federal program needs, or any other contract or agreement necessary for the administration of Town business, housing production, community development or human services. The Town Administrator shall have the authority to sign rental agreements and annual lease agreements for real property for which the Town is either the lessor or the lessee. Mr. Kerrigan seconded.

Mr. Allison shared his experience; he is often needed to sign things but is not an expert in many of the areas that the documents address, so he spends time asking the Town Administrator to explain to him what he is signing. He wants to empower and trust the paid staff and believes that this sort of action is important to the success of the Town.

Ms. Turner stated that she agrees in general, and assuming that Ms. Hodges will bring the substance of any documents to the Board, this is in large part a formality. Ms. Hodges agrees, stating that in no circumstances should the TA sign documents creating actions that have not been fully vetted. Ms. Turner stated that her expectation would be that the Select Board would hear about actions prior to the TA signing documents. Mr. Kerrigan said that he understands the intent and wants to empower Ms. Hodges.

Mr. Allison offered a recent example, where he received a call from the Chair of the Historic Commission who needed a grant application signed immediately. The first thing he needed to do was to see Ms. Hodges so that she could explain what it was that he was being asked to sign. Ms. Turner expressed concern that the Board would not have been advised of a grant application prior to the request for a quick signature; Mr. Allison responded that this “is not a full time job; the Select Board is the Board of Directors of a company, and we’ve hired a President to run it, and we need to let her run it.” Mr. Kerrigan suggested striking the word “full” from the motion; Mr. Allison suggested tabling the discussion.

Mr. Allison moved to table this agenda item to the next regularly scheduled meeting. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

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

Ms. Hodges explained that in a recent vote Mr. Kerrigan had been appointed to the Lancaster Affordable Housing Trust (LAHT) for a term to coincide with his term on the Select Board. It was later clarified that LAHT terms are for two years. Ms. Turner moved to repeal Mr. Kerrigan’s appointment and to appoint him to a two-year term consistent with the Trust’s charter. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

6. Discussion on Juneteenth Independence Day (June 19)

Ms. Hodges explained that Juneteenth is now a state holiday. Most communities in the Commonwealth are playing catch-up. Lancaster does not have anything representing Juneteenth as a holiday, and so it becomes incumbent on the Select Board to act. This would necessitate a side letter to the unions recognizing the holiday. She suggested that for Public Safety it might be a floating holiday. This year the holiday would be recognized on Monday.

Mr. Kerrigan moved that the Town of Lancaster approve June 19 as Juneteenth Independence Day and we empower the Town Administrator to act in a manner thereof to execute that with town employees and collective bargaining agreements and facilities and closings and all the like, in perpetuity. Mr. Allison seconded. Ms. Turner noted that she would abstain from the vote because she is an employee. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Abstain. Approved, [2-0-1].*

VIII. APPOINTMENTS AND RESIGNATIONS

Annual Appointments

Memorial Day Committee (Annual Appointment – term to expire 6/30/2023)

Ms. Turner moved to appoint Barbara Foster, Donna Sanginario, Karen Shaw, Ann Fuller, and Jennifer Lapen to the Memorial Day Committee, term to expire 6/30/23. Mr. Kerrigan seconded. Board members noted this committee does an excellent job and could use more members. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Re-Appointments

Agricultural Commission

Ms. Turner moved to appoint Eric Jakubowicz, as a member of the Agricultural 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].*

Board of Appeals (ZBA)**

Ms. Turner moved to appoint Frank Sullivan as a Member of the Zoning Board of Appeals, term to expire 6/30/27. 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 Dennis Hubbard, as an Associate Member of the Zoning Board of Appeals, 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].*

Appointments*

Historical Commission

Ms. Turner moved to appoint Martha Moore, 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].*

Nashua River Wild & Scenic Stewardship Council

Ms. Turner moved to appoint Justin Smith, as a Member of the Nashua, Squannacook, and Nissitissit Rivers Wild & Scenic Stewardship Council, 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].*

IX. LICENSES AND PERMITS

Ms. Turner moved to approve the Application for Use of the Town Green/Gazebo from the Friends of Thayer Memorial Library, requesting 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. 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 approve the Application for 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). Mr. Allison seconded. Mr. Allison recognized David Carr, 71 xxx Lane in Lancaster, President of the Carr Foundation, who explained that the Foundation's mission is to feed families. The event will include music, 20+ vendors of spirits and beer, and food trucks. He has spoken to Fire and Police Chiefs. More information can be found at nashobabrewfest.com. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

Ms. Turner moved to approve the 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, 2pm-6pm. Mr. Allison seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. Approved, [3-0-0].*

X. NEW BUSINESS

**This item is included to acknowledge matters not reasonably anticipated by the Chair.*

XI. COMMUNICATIONS

- Select Board's Special Meeting will **NOT** be held on Monday, June 13, 2022.
- 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 Monday, June 20, 2022, in observance of Juneteenth Independence 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

APPROVED

Alexandra W. Turner, Clerk
Approved and accepted: June 15, 2022