



**LANCASTER SELECT BOARD
Meeting Minutes**

of Monday, November 7, 2022

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

I. CALL TO ORDER

Chairman Stephen J. Kerrigan called the meeting to order at 6:03PM in the Nashaway Meeting Room located on the second floor in the Prescott Building, 701 Main Street, Lancaster, MA. He advised that the meeting was being recorded via ZOOM and is being broadcast by Sterling Lancaster Community Television.

Join Zoom Meeting: <https://us02web.zoom.us/j/87110713986>

Meeting ID: 871 1071 3986

Roll call vote taken, Jason A. Allison, present, Alexandra W. Turner, present, Stephen J. Kerrigan, present. Also present, Kate Hodges, Town Administrator

II. APPROVAL OF MEETING MINUTES

Mr. Kerrigan asked for a motion to approve the minutes of October 17, 2022. Ms. Turner offered this motion, seconded by Mr. Allison. *Vote taken, Alexandra W. Turner, Aye; Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Motion passed. [3-0-0]*

III. SCHEDULED APPEARANCES & PUBLIC HEARINGS

Public Hearing (Continued from October 17, 2022) Special Permit to Remove Earth Products Renewal For LLEC, Inc.

Notice is hereby given that a Hybrid Public Hearing will be held on Monday, October 17, 2022, at 6:30P.M. Zoom Link <https://us02web.zoom.us/j/86295066308> to consider the application of James Simpson, dba LLEC Inc., 139 Greenland Road, Sterling, MA for renewal of a Special Permit To Remove Earth Products (Sand and Gravel) from a parcel of land located westerly of I-90, Easterly of Jungle Road, identified on the Lancaster Assessors' Maps as Map 23, Parcels 7, location approximately 700 feet Easterly from the intersection with Jungle Road. A copy of the Application and Engineering Plans may be viewed in the Select Board's Office, Prescott Building, 701 Main Street, Suite 1, Lancaster, MA between the hours of 9:00 a.m. and 4:00 p.m. Monday through Thursday. All persons interested in providing comment should attend and be heard.

Mr. Kerrigan explained that this was a continuance of a Public Hearing from October 17, 2022, for a scheduled permit to remove earth products by LLEC, Incorporated. Mr. Allison moved to open the hearing; Ms. Turner seconded. *Vote taken; Jason A. Allison, Aye; Alexandra W. Turner, Aye; Stephen J. Kerrigan, Aye. [3-0-0]. Vote passed.*

Mr. Kerrigan reviewed the background of this permit; the new permit would expire in August 2024. Ms. Turner stated that she thinks this is a good project, but that the Board needs to consider assumptions about rules for permit renewals. She stated that at a previous hearing there was difficulty finding one of the monitoring wells, but that seems to have been rectified. Seeing no public input, Ms. Turner moved to approve the application of James Simpson, d/b/a LLEC, Inc. as printed in the agenda. Mr. Allison seconded. *Vote taken; Jason A. Allison, Aye; Alexandra W. Turner, Aye; Stephen J. Kerrigan, Aye. [3-0-0]. Vote passed.*

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

IV. BOARDS, COMMITTEES, AND DEPARTMENT REPORTS

Thayer Memorial Library Trustees – Joint Meeting

Vacancy – Thayer Memorial Library Trustees

In accordance with M.G.L. c. 41, §11, the Lancaster Select Board and the remaining members of the Thayer Memorial Library Trustees, shall discuss and appoint an individual to serve on the Thayer Memorial Library Trustees to fill one seat vacated by Mr. Frank MacGrory. The appointment is effective immediately, once the member is sworn into office by the Town Clerk, and shall continue until the Town's next annual election, or until another is qualified.

The Thayer Memorial Library Trustees opened their meeting. Chair Emily Rose, 750 George Hill Road, called the roll. Frank Streeter, Karen Silverthorn, Emily Rose, all present. Ms. Rose noted that Mr. MacGrory had served as a library trustee for 43 years, working through many changes. The Thayer Memorial Library Trustees have voted to appoint Mr. Frank MacGrory as the library's first Trustee Emeritus.

Ms. Rose announced that there are two excellent applicants for this opening. Mr. Kerrigan took the opportunity to speak about Mr. MacGrory's contributions to both the Town and the Thayer Memorial Library. Ms. Turner spoke about his contribution to the Council on Aging. The Library Board of Trustees have met with both applicants.

Mr. Streeter moved to appoint Adam Zand to serve as a member of the Thayer Memorial Library Trustees. Ms. Rose called for the Trustees vote. Karen Silverthorn, Aye; Frank Streeter, Aye; Emily Rose, Aye. [3-0-0]. Mr. Allison moved for the Select Board to re-affirm the vote of the

Thayer Memorial Library Trustees; Vote taken; Jason A. Allison, Aye; Alexandra W. Turner, Aye, Stephen J. Kerrigan, Aye. [3-0-0]. Vote passed.

Mr. Streeter moved to close the meeting of the Thayer Memorial Library Trustees; a second was heard. Karen Silverthorn, Aye; Frank Streeter, Aye; Emily Rose, Aye. [3-0-0], Vote passed.

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 permitted.

Mr. Kerrigan reviewed the rules for public comment, noting that the Board recognizes participants who are at the meeting in person first, and then remote audience members.

Mr. Kerrigan recognized Rob Zidek, 103 Kaleva Road. Mr. Zidek urged the Select Board to vote against both zoning articles on the upcoming Special Town Meeting Warrant, arguing that these would cause changes to Lancaster which would not be for the good.

Mr. Kerrigan recognized Frank Streeter, 135 Bull Hill Road, Chair of Planning Board but not speaking officially on behalf of the Planning Board. Mr. Streeter stated that he is pleased with the changes that have been made to the MOA. However, referring to incentive payments around the expedited permit fee, he stated, "I think the chances that the town would ever see a dime through this are minimal at best. It's a difficult [unheard] to get every permit from every board in 120 days. It would be virtually impossible. I've spoken to others with experience on this, you know the boards, they agree. It's not that the principle is necessarily bad on that basis, but the timing is ridiculous. It will not happen. Secondly, it implies that Capital Group, because they're willing to make the financial contribution, should possibly get special service out of town boards, and be treated possibly differently than those who are not paying. I personally find that to be borderline unethical. We should give the same high quality service to every single applicant, and I certainly pledge to do that to Capital Group, as I did to Rand-Whitney and all the rest. But the way this is done it's a recipe for dissension. I urge you to strike it, and I would also urge you to strike the land language as we previously discussed. Thank you.

Mr. Kerrigan recognized Linda Ringer, 42 Fuller Ave. Ms. Ringer expressed her concern about plowing, ambulance access, and trash pickup at her location off Spectacle Pond Rd.

Mr. Kerrigan recognized Kendra Dickinson, 402 Oetman Way, who stated that she was speaking as a private citizen rather than as a member of the Planning Board. Ms. Dickinson stated that she would like to ask Select Board member Turner why she had taken it upon herself to call members of the community who have "vote yes" signs in their yard, telling them to question the numbers and that the Town's numbers are inaccurate. [Mr. Kerrigan cautioned Ms. Dickinson] Ms. Dickinson stated, "I'm curious what numbers are being told to the community that are inaccurate and where are they coming from?" [Again, Mr. Kerrigan cautioned Ms. Dickinson]

Mr. Kerrigan recognized Paul Mello, 83 Beach Ave., Fire Road 8. Mr. Mello said he'd been there since 1961 and paying taxes all those years, and the Town should be plowing the roads in this area.

Ms. Turner stated that in answer to Ms. Dickinson's comment, that she has friends on both sides the issue and often tries to see both sides. She stated that she'll ask a friend what they think, how they came to this conclusion, and if they have any questions. She continued, saying that the Board's job is to lead, and that as far as the numbers go, there has been a lot of confusion which will be discussed later tonight, and that she seeks clarity. Ms. Turner said that we try to have constructive, meaningful conversations, and that she does not want anyone to feel intimidated.

Mr. Kerrigan recognized Martha Moore, 131 Seven Bridge Road. Ms. Moore concurs with Mr. Streeter's earlier statement about the MOA; she thinks that earlier versions offered the Town more protection than the current version. Regarding the PJ Keating permit, she is unsure as to whether the CEI findings were ever incorporated into the permit conditions.

Mr. Kerrigan recognized Kathy Hughes, 80 Fire Road 11. Ms. Hughes stated that on October 14, the DPW removed campaign signs from private property on Lunenburg Road, and that only signs (Vote No) opposing the Rezoning article were removed. She stated that when she investigated this she was told that there had been complaints from people in town, including an email from a Planning Board member. She said that she was told that the Town does not allow signs on easements, but states that throughout the town there are exceptions to this. Ms. Hughes stated that she has contact the ACLU, who agreed that civil liberties have been violated. Ms. Hughes continued, stating, "I understand that many people complained about the signs, but to have a Planning Board member complain seems outrageous." Ms. Hughes stated that the TA acknowledged bias on the Town's part. She is extremely disappointed with whomever instructed the DPW to remove these signs and would like to understand what the Town is going to do to rectify this.

Mr. Kerrigan stated that this is an issue for the DPW, which is a separately elected commission. He stated that "I'm sure you didn't mean to suggest that the Town Administrator acknowledged a bias on behalf of the Town government in one way or the other."

Ms. Hughes replied, "I believe there was an acknowledgement that only the 'No' signs were taken down, and that was unfair."

Mr. Kerrigan recognized Town Administrator Kate Hodges, who stated, "That isn't what I said. I said that we had been getting a lot of people that are calling who believe that their 'No' signs were taken down while others were taken up, and I issued an email to the Planning Board and the Select Board and the DPW Board, basically affirming what I said to the DPW Director, which was that although it's regrettable, we understand that some of the signs are not in keeping with the bylaw. I asked to suspend removal of all signs within the right of way until after the Town Meeting, I had said that I had issued that to the staff so that nobody would feel that they were being targeted, for or against, or a business or anything else, and I was told that that was alright. So that was what I issued via email."

Ms. Hughes reiterated, stating, “There is no doubt that the No campaign was targeted because they were not taken down even next door. They were only taken down in one particular area, and that was an area that did receive apparently some complaints. So, it was targeted. It was biased, and it was unfair, and it was done by an entity of the town, who, I understand, was instructed to do it.”

Mr. Kerrigan stated that there is a lot of conjecture and that the meeting will move on, but he appreciates Ms. Hughes raising the concern and that the DPW is aware of it.

Mr. Kerrigan recognized Anne Ogilvie, 4 Turner Lane. Ms. Ogilvie stated, “First, just say that I would like to see even treatment by the Chair of all people who get up and give public comment, because I didn’t see that tonight. We had a resident who attacked a Select Board member on behalf of another resident who she did not name.”

Mr. Kerrigan interjected, saying, “who I admonished, and told this was not a Q & A session, and I gave Alix a chance not to answer.” Ms. Ogilvie stated that she was not looking to argue with Mr. Kerrigan but that she was just pointing out that we don’t have a balanced approach and that this was visible to people watching. She read a letter from Cara Sanford of 350 Bull Hill Road because Ms. Sanford was unable to attend. (*Attached*). In the letter, Ms. Sanford expresses her opinion that the MOA Agreement favors the developer rather than the community.

Mr. Kerrigan recognized Deb D’Eramo, 127 Harvard Road. Ms. D’Eramo echoed Ms. Ogilvie’s comments regarding Ms. Dickinson’s earlier comment. She went on state that the PJ Keating hearing is important and should be aboveboard and visible to the public. She sent a letter to the Select Board earlier today with concerns about the MOA, and she would like to hear Town Counsel’s opinion on the MOA. (*Attached*).

Mr. Kerrigan recognized Justin Smith, 4 Turner Lane. Mr. Smith talked about the PJ Keating’s request to waive the Public Hearing, pointing out that the Chisholm Earth Product Removal permit issued in October was not passed with the super majority required for Special Permits; he wanted to know if the permit had been issued. Additionally, he commented that the MOA’s are being considered late on the agenda, stating that he is concerned about the Town giving up its right to take legal action. And he is “troubled by the fact that the enterprise uses such as junkyards, third-class car licenses, and private dumps have not been prohibited as uses.” He also objected to “the owed parcels of land from the broken 2017 settlement agreement being given to the Town only in exchange for favorable permits.”

Mr. Kerrigan recognized Roy Rezac, 125 Harvard Road. Mr. Rezac, referring to the online “Town Meeting Primer” asked for information as to how traffic numbers would change based on a “yes” vote or a “no” vote. Mr. Kerrigan noted that there are traffic studies online that might be helpful.

Mr. Kerrigan recognized Kathy Hughes, 80 Fire Road 11. Ms. Hughes stated that she agreed with Justin Smith’s comments, and that secondly, the Town should do due diligence including getting financial statements from the Capital Group if they are to enter a financial arrangement with this company.

Mr. Kerrigan recognized Rob Zidek again, who continued to read his letter.

Mr. Allison noted that public comment is an option and is not required, and that he does not appreciate Mr. Zidek's comment that the Select Board will be signing a death warrant for the Town.

Mr. Kerrigan recognized Frank Streeter, 135 Bull Hill Road, who said he was putting on his "Affordable Housing Trust hat." He stated that he thinks people are not 100% clear on the occupants of the 40R project, explaining that $\frac{3}{4}$ of the development would be market rate housing, with only $\frac{1}{4}$ of the project devoted to affordable housing.

Mr. Kerrigan recognized Christina Quill, 45 Spec Pond Ave. Ms. Quill asked that the Select Board consider the Spec Pond Ave. resident's request for plowing. She stated that she hoped that the Board would not just consider finances when making this decision, because people on this road pay an awful lot of taxes. Also, she stated that the road is an accepted road, and that the road is wide enough for emergency vehicles as well as plowing. She states that they were told that in case of emergency, they should call the town, and the Town would try to locate a nearby plow, and that emergency vehicles could follow this.

Mr. Kerrigan stated that he was going to close Public Comments at this point and ask the Board if they would consider discussing the Spec Pond Ave. agenda item prior to addressing the PJ Keating item.

Mr. Kerrigan recognized Gail Diverdi 33 Beach Ave. Ms. Diverdi noted that the residents in the Spec Pond Ave. area have about a half-mile walk to their mailboxes. Noting plowing impacts this, as well as UPS, Fedex, and Amazon deliveries, and makes it difficult to have heating oil delivered to homes.

VI. ADMINISTRATION, BUDGET, AND POLICY

1. Review/Vote – PJ Keating request to waive public hearing for permit renewal (out of order; addressed after Item #2)**

Mr. Kerrigan introduced the topic, explaining that there was a hearing with an extension to October. There was a Peer Review in June, and another a few weeks ago. Residents have questioned whether or not the provisions requested by CEI during the Peer Review had been incorporated into the permit conditions; they have.

Mr. Allison moved to waive the public hearing for permit renewal for PJ Keating. Ms. Turner seconded the motion for discussion.

Ms. Turner thinks that this process has resulted in a much better permit, and she is fairly comfortable with the permit. She recollects that the Board had agreed to hold a public hearing in order for people to speak. She noted that while the Board only needs a majority to waive the hearing, to issue the permit requires a unanimous vote, and she would prefer to have a hearing. Mr. Kerrigan believes that there was already a hearing; Ms. Turner would like to re-

open the hearing so that people have an opportunity to speak. Mr. Allison asked to amend the motion to waive the permit hearing for PJ Keating and to change the monitoring authority from Tighe and Bond to CEI. Ms. Turner seconded the amendment. Mr. Allison expressed his opinion; he stated that this a good company and a good taxpayer in Lancaster, and has been put off multiple times and the Board should not drag this out further. Mr. Kerrigan called for a vote on the amendment; Ms. Hodges verified that the permit in question would begin November 26, 2022, and would be two years in length. *Jason A. Allison, Aye; Alexandra W. Turner, Nay; Stephen J. Kerrigan, Aye. Amendment passed. [2-1-0]*

Mr. Kerrigan explained that the next step would be to issue the permit. Mr. Allison reiterated the amended motion. *Vote taken, Jason A. Allison, Aye; Alexandra W. Turner, Nay; Stephen J. Kerrigan, Aye. Vote failed. [2-1-0]*

Mr. Kerrigan asked Ms. Hodges for next steps, since permit approval needs to be unanimous. Mr. Kerrigan asked Ms. Turner to define what she would need to approve the permit. Ms. Turner said that PJ Keating is a good business and that the residents are good. She will support the permit but that the Board agrees to have a resident meeting. Mr. Kerrigan said that his concern is how many meetings is enough. Ms. Turner said that she would vote to issue the permit subject to a meeting to discuss resident concerns. Mr. Allison pointed out that motions cannot have contingencies, asking if the permit could be approved if the Board commits to holding public non-public meeting or meetings during December. Mr. Kerrigan said he would commit to having a special permit public comment section during the November 21 meeting, but he would like to see the permit approved prior to this. Ms. Turner would like CEI and PJ Keating to attend; Mr. Kerrigan stated that he could not commit to their schedules. Ms. Hodges suggested that an alternative might be to have a meeting after CEI's first quarterly report. Ms. Turner suggested a January meeting. Ms. Hodges will schedule a meeting with CEI and residents early in the new year to discuss the monitoring program.

Ms. Turner moved to approve the Earth Product removal permit for PJ Keating for a two-year permit beginning November 26, 2022 and running through November 25, 2024 with CEI contracted as the monitoring agent. Mr. Allison seconded. *Vote taken, Jason A. Allison, Aye; Alexandra W. Turner, Aye; Stephen J. Kerrigan, Aye. Vote passed. [3-0-0]*

Mr. Kerrigan recognized Martha Moore, 131 Center Bridge Road. Ms. Moore asked if the permit just issued was public information, and if she could get a copy because she would like to make sure that everything is in there. She thinks the community forum will be helpful.

Mr. Kerrigan recognized Anne Ogilvie, 4 Turner Lane. Ms. Ogilvie thanked the Select Board for honoring the commitment to bring the entities together.

2. **Spec Pond Road – follow-up discussion, next steps** (**out of order; addressed prior to item #1.)

Mr. Kerrigan recognized Dave Murphy, representing the Spec Pond Road residents as the Spec Pond Association.

Mr. Murphy said that in summary, two months ago, they put their best case forward as to why Spec Pond Ave. was legally accepted in 1938, and because of World War II and other events it was dropped, falling from the list of accepted streets in 1958. He stated that when this argument was made, they were told that they would have a decision by October 15. Mr. Murphy stated that the Board arbitrarily and unilaterally, after he had left the room, changed that date to November 1. Mr. Murphy stated that “the idea was to give you adequate time to confer with Town Counsel, to review all the information I gave you, and to get their take on the legality of my position and our position, that the road was accepted. So, I want to point out that I was not given, and I made the request that I’d be given, Town Counsel’s opinion prior to the meeting, so I may rebut anything they said, and have a discussion with Town Counsel as to how the proper hearing is done, my opinion versus their opinion, and we come to a common understanding. I was not given that opportunity.”

Mr. Murphy, referring to paperwork that he had just received, said, “the decision, and this isn’t even a decision, this isn’t even a formal opinion that you handed me, was given on October 28, one business day before your self-imposed deadline.”

Mr. Murphy reviewed the letter from Counsel, saying that the statement that a roadway is accepted in one of three ways, does not take into account that in 1953 the State enacted a Uniform Set of Rules for accepting subdivisions, which Lancaster approved in 1954. Mr. Murphy stated that since Spec Pond Ave. have been approved in 1938, the first two statements in this letter do not apply. The third item on the list, states that a road can be accepted by the Town (prior to the 1954 decision) if the Town accepts the subdivision, or if the road is properly laid out. The fact that the Town approved Spec Pond Park in 1925 as an approved subdivision, and that plan had to have been approved by the Clerk prior to filing with the Registry of Deeds, conforms with the needs as outlined by Town Counsel. Finally, Mr. Murphy stated that Spec Pond Ave. is a legally delineated road. Mr. Murphy stated that he finds it insulting that Counsel wants to be paid 3-5 hours for this very brief “brief.”

Mr. Kerrigan apologized for the Board’s not meeting their agreed upon date. He stated that this is a past problem that we are trying to resolve, and that it has to be solved through a lens of time. He stated that all the arguments have been compelling, and that the Board needs to do what’s right for the community and for the residents that are impacted, but the Board also needs to make sure that they are setting proper precedent.

Mr. Kerrigan stated that in the memo from Town Counsel, it does appear that the 1938 vote does not appear to accept the way, but instead it requests of the State to establish a right of way to Spec Pond, which is different from accepting a way. He explained that the Board’s job now is to figure out what the intent was. He said that you could make the argument that it was plowed from 1938 to 1958, so obviously it was a public way, or it could be argued that the Town has not plowed it since 1958. Mr. Kerrigan continued, saying that he appreciates that the Board is not meeting the Spec Pond Association’s timeline, and he gets that winter is coming, but some things take time.

Mr. Kerrigan asked Town Administrator Kate Hodges to review the issue. Ms. Hodges noted that Mr. Murphy has provided a lot of context and that her office has researched the

background, reviewing historic Town Meeting warrants and records dating back to 1938 from the Town's archives. This research was shared with Counsel. Ms. Hodges stated that the question now is the pathway forward. Mr. Murphy expressed that he feels like "the can is being just kicked down the road" and suggests that if he were to begin legal action that he would get better results, suggesting that there are other roads that might be poorly documented and that an injunction could be issued preventing the Town from servicing other roads.

Mr. Allison stated that he is sorry and that he empathizes with the residents, but that he does not like the perception of threats, and that he wants to do the right thing and this issue is a priority. Ms. Turner noted that the residents have made compelling arguments, and that the pace of government is often frustrating, although the amount of time spent by staff should be noted. Ms. Turner would like the DPW and the Planning Department and others to try to work out a solution. Mr. Murphy asked that the Board take a vote to direct the DPW to temporarily to maintain Spec Pond Ave. until this is sorted out. The Board explained that they cannot do that because the DPW Board is independently elected and does not report to the Select Board. Mr. Kerrigan suggested that one opportunity might be to create a citizen's petition for presentation at the Annual Town Meeting. Mr. Murphy stated that he does not believe this would go anywhere, because even if the road were required to be held to 1957 standards, it would not pass, and that this would be true for 2/3 of the roads in town. Mr. Kerrigan explained further; Ms. Hodges stated that she would be happy to help, but additional work is needed by Town Counsel, and that Counsel would need to work with MassDOT.

Mr. Allison moved to authorize Town Counsel to expend not more than seven hours of time researching the topic of whether or not Spec Pond Ave is already an accepted way, and if not, how to proceed. Ms. Turner seconded. Ms. Turner stated that she thinks this is a good investment in town time and tax dollars. Mr. Allison stated that if it is determined that Spec Pond is a public way, then it needs to be maintained; if it is determined that it is not, then it is a different conversation, and the relationship between the Select Board and the DPW needs to be clarified.

Mr. Allison requested that the DPW Board be invited to the next regularly scheduled Select Board meeting.

Mr. Kerrigan recognized another resident who spoke about his memories of Devens maintaining the roadway; he expressed concerns about emergency access.

Mr. Murphy reiterated his request that the Board vote to ask the DPW to maintain the road until the issue is resolved; Mr. Kerrigan said again that they cannot take a vote on authority that the Board does not have. Ms. Turner stated that one of the concerns brought up in the past by Counsel is liability, in case of any problem. Mr. Murphy asked if all parties could meet in the Town Administrator's office; it was explained that this could not happen due to Open Meeting Law.

Mr. Kerrigan thanked the Spec Pond Association for their emails and participation.

3. ARPA Funding Use Exemption Request – Commission on Disability, funds requested to print Committee’s Emergency Preparedness Guidebook

Mr. Kerrigan explained that the Lancaster Commission on Disability has prepared an Emergency Preparedness Guidebook and they would like to print a number of copies, but there is no budget for this. There is a question as to whether it would be possible to have an exemption in order to use ARPA Funding for this. Ms. Hodges explained it is estimated that the cost to produce 2,000-3,000 copies would be \$2,000-\$3,000; the Commission would like to mail them to each household at a cost of approximately \$5,500. It has also been suggested that fewer copies are printed and are made available in various location in town.

Mr. Allison moved to approve up to \$4,000 of ARPA funding to print and distribute the Commission on Disabilities’ Emergency Preparedness Guidebook. Ms. Turner seconded. All members of the Board noted that the Guidebook is well done. Ms. Turner suggested that the initial printing is a smaller number so that it could go to those residents who are interested.

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

4. Take Position on Town of Lancaster Select Board-Capital Group/702, LLC Memo of Agreement (MOA) relative to 40R Development off McGovern Blvd./Rt. 70 in North Lancaster

AND

5. Take Position on Town of Lancaster Select Board-Capital Group/702, LLC Memo of Agreement (MOA) relative to Enterprise rezone development initiative off McGovern Blvd. in North Lancaster.

Mr. Kerrigan began by thanking those who have worked on the MOA, asking the Board if they have questions.

**** Out of Order *** While resolving some technical issues, the Board addressed the resignation of Judie MacLean from the Council on Aging; see below.*

Ms. Turner introduced her PowerPoint presentation (*Attached*), explaining that her approach is to be fiscally conservative, stating that she does not support “side agreements.” She stated that the 40R MOA is a much better MOA than the Enterprise one.

Mr. Kerrigan recapped, noting that the Board is considering the 40R. He asked Victoria Petracca to respond to questions raised by Ms. Turner about the 40R and Mr. Allison to respond to questions about the MOA. Ms. Petracca and Ms. Turner engaged at length in questions and answers.

Mr. Allison moved for the Select Board to take a positive position on the Lancaster Select Board / Capital Group's / 702 LLC Memo of Agreement relative to 40R Development off McGovern Boulevard/Route 70 in North Lancaster and allow Town Administrator Hodges to make any non-substantive changes. Ms. Turner seconded for discussion. Ms. Turner stated that she still has some concerns; Mr. Kerrigan asked her if the vote was held later in the meeting so that she had more opportunity to ask question, would that help. Ms. Turner said, no, not tonight, that she needs to read the MOA, although the agreement is much improved. *Vote taken, Jason A. Allison, Aye; Alexandra W. Turner, Nay, Stephen J. Kerrigan, Aye. [2-1-0]. Vote passed.*

Discussion continued, with Ms. Turner expressing concern regarding the single point of contact clause in the MOA, the deadline/incentive of 120 days for expedited permitting, the need for additional traffic studies, the land settlement agreement, open space, arbitration, no requirement to build, the potential for the developer or a tenant to request a TIF, and performance guarantees/bonds. Ms. Turner stated that she does not like the MOU as written, suggesting that if this fails then the Town work with a professional mediator like the Town of Maynard did in their negotiation with the Capital Group.

Mr. Allison moved to approve the extension of the Select Board meeting after 10:00pm. Ms. Turner seconded. Mr. Kerrigan urged the Board to wrap it up. *Vote taken, Jason A. Allison, Aye; Alexandra W. Turner, Aye, Stephen J. Kerrigan, Aye. [3-0-0]. Vote passed.*

Mr. Allison listed things that he does not like in the MOA to illustrate that compromise is needed, then explaining why, overall, he is in favor of the agreement. He explained why this will bring in much needed tax revenue, and that the developer will still need to comply with all bylaws and regulations.

Mr. Allison moved to take an affirmative position on the Lancaster Select Board / Capital Group / 702 LLC Memorandum of Agreement relative to Enterprise Zoning on McGovern Boulevard in North Lancaster and allow the Town Administrator to make non-substantive changes to the document. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Alexandra W. Turner, Nay, Stephen J. Kerrigan, Aye. [2-1-0]. Vote passed.*

VII. APPOINTMENTS AND RESIGNATIONS

Resignations:

*** Out of Order *** *This resignation was addressed prior to discussion of Item #4.*

Lancaster Council on Aging, Mary J. "Judie" MacLean

Ms. Turner moved to accept the resignation of Judie MacLean from the Lancaster Council on Aging. Mr. Kerrigan seconded the motion. The Select Board thanked Ms. MacLean for her many years of service to the Town of Lancaster. *Vote taken, Jason A. Allison, Aye; Alexandra W. Turner, Aye; Stephen J. Kerrigan, Aye. Vote passed. [3-0-0]*

Appointments:

Lancaster Council on Aging – Roberta Winsor, term to expire June 30, 2024 (fill unexpired term)
Mr. Allison moved to appoint Roberta Winsor to the Lancaster Council on Aging, term to expire June 30, 2024. Ms. Turner seconded the motion. *Vote taken, Mr. Allison, Aye; Ms. Turner, Aye; Mr. Kerrigan, Aye. [3-0-0]*

Lancaster Cultural Council, terms to expire June 30, 2025 (all are first terms, as members are only allowed to serve two terms)

- Denise Hurley
- Deb Adams
- Christine Cassidy
- Joyce Corbosiero

Mr. Allison moved to appoint Denise Hurley, Deb Adams, Christine Cassidy, and Joyce Corbosiero to the Lancaster Cultural Council, term to expire June 30, 2025. Ms. Turner seconded the motion. Ms. Turner asked for clarification as to how many total members this would make for the Cultural Council; Ms. Hodges explained this would make seven, and the Council can have up to nine members. *Vote taken, Mr. Allison, Aye; Ms. Turner, Aye; Mr. Kerrigan, Aye. [3-0-0]*

Constable – Interim Police Chief Everett Moody, term to expire June 30, 2025

Mr. Allison moved to appoint Everett Moody as Constable, term to expire June 30, 2025. Ms. Turner seconded the motion. *Vote taken, Mr. Allison, Aye; Ms. Turner, Aye; Mr. Kerrigan, Aye. [3-0-0]*

Lancaster Historical Commission – Judy Ewell as member, term to expire June 30, 2025

Mr. Allison moved to appoint Judy Ewell to the Lancaster Historical Commission, term to expire June 30, 2025. Ms. Turner seconded the motion. *Vote taken, Mr. Allison, Aye; Ms. Turner, Aye; Mr. Kerrigan, Aye. [3-0-0]*

IX. LICENSES AND PERMITS - NONE
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X. NEW BUSINESS

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

Ms. Hodges is looking for information as to when the Select Board voted on last year's Annual Town Meeting warrant; the paperwork in the Town Clerk's office has the signatures of all three members of the Board but is not dated. It does not change the outcome.

XI. COMMUNICATIONS

- Special Town Meeting will be held on Monday, November 14, 2022, 7pm, located at Mary Rowlandson Elementary School Auditorium.

- The Select Board & Finance Committee Joint Meeting for the FY24 Budget Review will be held Saturday, November 12, 2022
- Miscellaneous Correspondence & Memoranda

XII. ONGOING PROJECTS & OLD BUSINESS

- Liaison Roles, Policies & Appointments, Review Draft Proposal (Turner)
- Financial Audit Advisory Committee Charge Review & Outlined Functions (Turner)
- Division of Capital Asset Management & Maintenance Property, Update (Turner)
- Public Records Requests Inventory & Handling, Policy Proposals (Turner)

Ms. Turner would like to move ahead on the Audit Committee as budget season is approaching. Ms. Hodges has suggested using the same format as was used to create the Government Study Committee.

Ms. Turner recalls that the Board was going to advertise for members of an ad hoc committee to work on the DCAMM project. Mr. Kerrigan has talked to some of the MassDevelopment people and suggests working on this topic after the Special Town Meeting.

XIII. EXECUTIVE SESSION

The Lancaster Select Board will meet in Executive Session pursuant to M.G.L. c30A, §21(a) for the Purpose (3): To discuss strategy with respect to collective bargaining, specifically to deliberate regarding the Union's response to the Level Three grievance determination issued by the Select Board to Teamsters Union, Local No. 170 regarding disciplinary action taken against member C. Manning, as an open meeting may have a detrimental effect on the bargaining position of the Select Board.

Ms. Turner moved for the Board to enter Executive Session pursuant to M.G.L. c30A, §21(a) for the Purpose (3): To discuss strategy with respect to collective bargaining, specifically to deliberate regarding the Union's response to the Level Three grievance determination issued by the Select Board to Teamsters Union, Local No. 170 regarding disciplinary action taken against member C. Manning, as an open meeting may have a detrimental effect on the bargaining position of the Select Board, and not to convene in open session thereafter. Mr. Allison seconded. *Vote taken. Mr. Allison, Aye; Mr. Kerrigan, Aye; Ms. Turner, Aye. [3-0-0]*

XIV. ADJOURNMENT

Respectfully submitted,

Kathleen Rocco
Executive Assistant

APPROVED

Approved and accepted, 11/21/22
Alexandra W. Turner, Clerk

Kate Hodges

From: Anne Ogilvie <anneogilvie@gmail.com>
Sent: Wednesday, November 2, 2022 12:29 PM
To: Kate Hodges; Stephen J. Kerrigan; Jason A. Allison; Alexandra Turner
Cc: Kathi Rocco
Subject: Re: Earth products Removal Vote at Oct 17th SB Meeting

Dear Kate and Select Board,

I am writing to once again raise issues regarding recent earth products removal permits. I wrote to you previously about two of these matters on Tuesday, October 25, 2022 (email copied below) and Kate referred me to Ms. Kathi Rocco, who she indicated is overseeing this process. Ms. Rocco offered some helpful information on earth products removal permits. I am grateful for what she provided, but my most pressing questions remain unanswered. I will reiterate my concerns about several outstanding EPR permits:

1. I just received the Monday, November 7, 2022 SB agenda, and I note that there is an EPR hearing for LLEC, but that there is not an agenda item to re-take the vote taken on the Chisholm permit hearing on Monday, October 17, 2022. The 10/17/2022 SB vote on the Chisholm permit went 2-1-0. *According to that vote, and our own bylaws, that permit was NOT granted.* I would hope that the Town would act to remedy this error by informing the permit-seeker of its occurrence and re-holding the hearing. **Can you provide an update on this permit and the action the SB will take to address this error, where the vote did not meet the threshold in our bylaws required to pass an EPR permit?**

2. **Can you provide an update on the plan for the NESS site on McGovern Blvd that has a now long-expired permit, and how the restoration will be completed in compliance with the permit?** My notes regarding the outstanding questions raised by the Tighe and Bond review of this site are in my initial email, and were not yet answered. As you know, this site is referred to as an "open sand and gravel pit" in the rezoning marketing materials, but of course it would not be if the restoration had been completed as the permit dictates.

3. Lastly, I note that the SB agenda item to Review/Vote on the PJ Keating request to waive the public hearing for permit renewal. **I request that rather than waive this public hearing, the SB opts instead to hold the hearing, and to have the permit, complete with the new conditions recommended by CEI, reviewed at this meeting.** We heard at the last meeting that Keating and the CEI reviewers were substantially in agreement, and it would be beneficial for residents to understand the new conditions that have been incorporated into the new permit, and have the opportunity to ask questions.

I think it is very positive that the town undertook the review of this important permit, and that an agreement on new conditions has been achieved. Holding the hearing will further residents' understanding of these conditions, which can only improve the relationship between Keating and the community. There are also important items that need to be confirmed at a hearing, such as whether the new data monitors in the wells that were promised for April 15, 2022 (Permit condition #25) have been installed. It is also important to know if the increased surety bond in permit condition #16 has been received by the Town.

I also ask that the SB appoint CEI as the new environmental monitoring partner for this permit. Tighe and Bond missed several key matters over the years they have monitored this site, and residents have had to point out these shortcomings in order to have permit conditions such proper flow meters installed, and to reinstate the originally instituted monitoring practices, as hand counts had been substituted for 14 years at various wells as the well transducers failed over the years and were not replaced.

I have numerous emails I am happy to share that contain the detailed background regarding the many concerns that lead up to the SB electing to issue a shortened permit this year and to request the CEI permit

review. I think this process has been long, but it has resulted in better conditions for Lancaster and nearby residents, and a greater awareness from Keating as to the impacts of their operations on our neighborhoods and resources. Upholding the hearing requirement to complete the review process and adopt the new permit conditions would be an exercise in transparency that will benefit the Town.

I am grateful for your consideration of these requests and any help you can provide to answer my questions above and provide updates..

Sincerely,

Anne Ogilvie
4 Turner Lane

Kathi Rocco

From: Cara Sanford <carasanford@comcast.net>
Sent: Thursday, November 3, 2022 11:33 AM
To: Stephen J. Kerrigan; Kate Hodges; Alexandra Turner; Jason A. Allison; Kathi Rocco
Subject: Fwd: please consider-- PJ Keating

Correction (the link btw my brain and my typing)-- I mean the Public Hearing part of the permit renewal.

----- Forwarded Message -----

Subject: please consider-- PJ Keating
Date: Thu, 3 Nov 2022 11:27:53 -0400
From: Cara Sanford <carasanford@comcast.net>
To: Stephen J. Kerrigan <SKerrigan@lancasterma.net>, Kate Hodges <KHodges@lancasterma.net>, Alexandra Turner <turnerselect@gmail.com>, Jason A. Allison <JAllison@lancasterma.net>, Kathi Rocco <KRocco@lancasterma.net>

Dear Chairman Kerrigan and fellow Select Board members,

I am respectfully asking you to not waive the PJ Keating permit renewal this time around. There was a lot of initiative and momentum earlier in the year to foster more of a dialog with and review of the Keating operation that was initiated by the residents...and the residents wanted the opportunity to learn more and be more engaged. There was a certain amount of momentum with that and all the work that CEI did. The last hearing on 10/17/22 felt abbreviated and there was not much of a chance for me and other residents to ask questions or get a clear sense of "what happens next" with the ramifications of CEI's work into the monitoring and permitting. Further, I thought there was supposed to be a Public Forum set up btw PJ Keating and the residents. If that intent is sincere, then the waiver to not conduct a public hearing seems like its a step in the opposite direction because it closes out the public rather than includes them.

Thank you in advance for considering my request. Cara

Kathi Rocco

From: Deb D'Eramo <deb705a@gmail.com>
Sent: Monday, November 7, 2022 12:06 PM
To: Kathi Rocco; Stevekerrigan@gmail.com; Kate Hodges; Jason Allison; Alexandra Turner
Subject: Public Comments - November 7, 2022 Selectboard Meeting

Please read the following comments into public record at the 11/7/22 Lancaster Selectboard meeting.

I'd like to express my concern regarding the MOA documents for the 40R and the Enterprise rezone. These documents may have a significant impact on the proposed North Lancaster development and therefore on the citizens of Lancaster. As of noon on November 7, 2022 these documents are not yet posted in their final form nor with any attachments or exhibits on the town website.

In just one week, residents will be asked to vote on warrant articles at Town Meeting where knowledge of these MOA terms is essential for making an informed decision. The town has prepared two documents to sway the vote on the articles that are dependent on the terms of the MOAs, which are NOT YET FINAL! These documents are the North Lancaster Financial Analysis and the Town Meeting Primer.

Although the Selectboard and town boards MAY have the authority to sign the MOA documents, it doesn't bode well for a clear and transparent process. I request that the final documents undergo a public hearing where questions can be asked and answered - perhaps by Town Counsel prior to the Selectboard signing off or voting to approve.. I am particularly concerned about the Arbitration clause in both MOAs. **Is the arbitration process, shown in the draft MOAs, in the best interest of the town? This should be answered by Town Counsel.** It would be great if Town Counsel was available to answer questions at the forum Jason Allison is sponsoring on November 8. These are complex legal documents and citizens should have the opportunity to hear clarifications from a lawyer.

Deb D'Eramo
127 Harvard Rd
Lancaster MA

Kathi Rocco

From: Deb D'Eramo <deb705a@gmail.com>
Sent: Sunday, November 6, 2022 9:23 PM
To: Stevekerrigan@gmail.com; Kathi Rocco
Subject: Public comment Selectboard November 7, 2022

This comment is in regards to item VI 1. on the agenda of the 11/7/22 Selectboard meeting. I request that it be read into public record during the Public Comment section of the meeting.

I believe that the P.J.Keating public hearing regarding their permit renewal **should not** be waived, but should be held to ensure that the items cited by CEI peer review in their letter of 8/16/22 have been accomplished. These include but are not limited to dust control and monitoring wells.

In order to ensure the health and safety of town residents as well as our treasured environment, P.J. Keating should provide details of their actions to the public. A public hearing allows the public to voice any concerns.

Thank you,
Deb D'Eramo
127 Harvard Rd, Lancaster, MA 01523