



**LANCASTER SELECT BOARD
Meeting Minutes
Of Monday, October 18, 2021**

I. CALL TO ORDER

Chairman Jason Allison called the meeting to Order at 6:00 P.M. via Zoom. He noted that the meeting was being recorded.

Join Zoom Meeting g <https://us02web.zoom.us/j/89409606926>
Meeting ID: 894 0960 6926

Roll call was taken, Alexandra Turner, present, Jason Allison present. Mr. Moody was having computer difficulty and will join as soon as possible. It was noted that this meeting is scheduled from six to nine pm.

Ms. Turner noted that she had not received the email blast notifying her of tonight's meeting and that is how she gets her agenda. She has received comments from some residents that they did not receive this email blast.

II. PUBLIC COMMENT PERIOD

6:00 P.M. - Opportunity for the public to address their concerns, make comment and offer
6:10 P.M. suggestions on operations or programs, except personnel matters.
Complaints or criticism directed at staff, volunteers, or other officials
shall not be permitted.

Mr. Allison read public comments.

From Kathleen Skelly, 102 Fire Road 11:

<p>“Hi Jason, please don’t forget why you are elected because honestly, it seems like everything happening in regard to this North Lancaster development is contradicting this. [three URLs from the Telegram linking to opinion pieces] From a naïve person who does not usually get involved in town politics, the meeting tonight is especially concerning. It appears the goal is to limit community involvement by taking comments at the end, limiting the length of meetings and stopping the Zoom calls. It should be the opposite. Community involvement should be encouraged, not discouraged. We also don't want to be the guinea pig for a developer’s first large warehouse build. I was at the peer review of the traffic report Economic Development Committee meeting, and it made it very apparent that this warehouse is a big mistake and that the developer is doing everything they can to</p>

hide the blatant facts. Please let's work together to find better ways to make money for the Town without compromising its beauty. Thanks, Cath”

Next is from Rob Zidek, 103 Kelva Road:

“Dear Mr. Allison, Ms. Turner and Mr. Moody, I submit the following for public comment at the October 18 2021 Select Board meeting. If this Board and the other boards and committees are truthful about pursuing what is best for the town, then there needs to be immediate and drastic improvement to the handling of public opinions, questions, issues, and suggestions. If nothing else gets decided tonight, I ask you to take whatever actions are necessary to bring a full stop to the usage of derogatory terms like “guff” when describing the Lancaster residents’ inputs during the public comment portion of the October 14 meeting. Those of us submitting public comment are not doing so because we have nothing better to do, or because we need to just get concerns out of our system or because we like to have them put on display. People are making significant personal sacrifices to voice these concerns, because we recognize the gravity of the risks that are becoming more and more visible at meetings regarding the McGovern project process. However, in return for those efforts we receive very little if any responses from various boards and committees that acknowledge, answer, or put into action our statements. Case in point is the traffic review held on the October 13 Economic Development Committee (EDC) meeting. Many very good questions and very relevant issues were brought up by the public at this meeting, yet there was no indication from the EDC as to how these would be answered or resolved. There was nothing delivered as to the intention of this review, nor how the outcomes of this meeting fit into the various other discussions and decisions related to this project. There was also no discussion about the next traffic related review. My suggestion is that the next review be held very soon and start with a reading, discussion, and assignment of action items with response from the public inputs. From my own notes, I could list over two dozen open action items, a few of which I view as critical. I know my neighbors can add a lot more. I'm ready to read these or submit them in writing at any time, however, I wish to wait on the EDC first two years they have recorded. On a related note, I would like to remind the Select Board that during the June 2 meeting, in lieu of speaking I offered a written introductory statement and a 537 page annotated PDF version of the traffic impact analysis study (TIAS). Per instructions from the Select Board chair and the Town Administrator I provided those files that were loaded into the town database. In these last four months, despite my asking several times for an opportunity to present my many comments, it's clear today that the materials were never likely read, my request for review never answered, and the day spent producing those files wasted. I ask for your unconditional assurance that my neighbors never receive the same disregard. As one schooled to regard every problem as an opportunity, I finish by declaring that I am truly grateful to the Select Board for establishing the public forums and anxiously await their execution. We look forward to getting the opportunity to have actual dialogues, to speak for more than three minutes at a time, to submit reports, to show presentations, and the most importantly, to be heard respectfully.”

From Amy Humphrey Facendola, 137 Colony Lane:

Comments for tonight's meeting 10/18. Mr. Allison, Ms. Turner, Mr. Moody, I'm writing to express my concern over two of the items listed on today's agenda, Section VII, items two and three. I would like my below list of comments read. I would like to express my opposition to in person meetings at this time. Section VI, Item 2. Our town continues to have a lower than average vaccination rate,

and asking residents to attend public meetings in person puts them unnecessarily at risk. Additionally, I think in person meetings at this time could post significant logistical challenges to keep everyone safe. The CDC continues to advise that we avoid crowds and poorly ventilated spaces and that we maintain six feet of distance from people who we do not live with. Last week's EDC meeting had well over 40 residents in attendance. How could you ensure the safety of all in attendance in a room that is well ventilated and allows for proper spacing? And what would you do if you plan for one space, but more people than anticipated showed up at a meeting? We should continue to strive to limit in person interactions where possible, so as to reduce COVID transmission to the greatest extent possible. I would like to express my opposition to moving the general public comment period to the end of the Select Board agenda, Section VII item three. In the constant pursuit of open governance and public engagement, I think the comments should not be relegated to the end of the meeting. It could have put a burden on residents to have to stay through a multi hour meeting to have their comment heard. General comments should be heard at the beginning of the meeting, and comments on agenda items should be able to be heard, while that agenda item is discussed. This Board should not be making decisions without hearing public comment. This Board should strive for more public engagement and not take actions that would effectively limit it. Thank you for your consideration on these items."

Ms. Turner asked Mr. Allison if at this point we could open the public meeting [sic]; she understood that it is best practice to open a meeting on time, so perhaps they could open the meeting, ask the applicant for a recess, and finish up with public comments. Mr. Allison stated that since much of the public comments are about wanting public comment to be heard, he does not want to delay public comment. Ms. Turner stated that hearings technically have to be opened on time and asked Mr. Pacheco for his input on the process. Mr. Pacheco said that if public comments took five or ten more minutes he thought that was okay.

From Cathy and Stewart Hughes, 8 Fire Road 11:

"Dear Select Board Chairman Allison, Clerk Moody, and Member Turner, With so many Lancaster residents deciding not to get vaccinated, it seems risky for the Select Board members and residents to attend in person meetings. Until the vaccination rates have significantly decreased, Zoom meeting should continue. Further, Zoom meetings have offered a wonderful opportunity for many residents to participate in the democratic process. So many of us have family and or work responsibilities where health and safety concerns limit our ability to attend in person meetings. Even during more normal times virtual meetings have opened the door of engagement for many residents. We hope this platform will continue to be an option going forward. We do want to encourage and not stifle civic engagement, don't we? On the agenda, item VII-3 is a discussion on moving public comment to the end of the Select Board meeting. In addition, we note a time limit on tonight's Board of Selectmen meetings. The time limit is certainly understandable. However, the combination of a meeting time limit and moving public comments at the end of the meeting may result of little or no time for public comment. Listening to the interests and views of town residents is an important part of communication and engagement for both the Select Board and the residents and should be valued by each BOS member. Public comment should remain toward the beginning of each regular Select Board meeting to ensure it takes place. FYI, it appears to be best practice to hold public comment at the beginning of the BOS meetings. I randomly picked 30 towns, about 10% of the 294 towns in Massachusetts, and reviewed their BOS agendas. 28 towns hold a form of public comment at or toward the beginning of the BOS agenda. One town, held it in the middle of

the agenda and oddly, one did not include it in their agenda. Thank you for your service and your time. Respectfully,”

Written comments having been read, Mr. Allison recognized Greg Jackson, 40 Farnsworth Way, noting that comments are limited to three minutes.

Mr. Jackson said:

“Thank you, Mr. Chairman. I would like to make some comments about the settlement agreement. So, dear Select Board members, During the past couple of years, multiple residents have raised concerns about the North Lancaster settlement agreement. We've received a variety of noncommittal answers and shifting narratives from the Town Administrator. What appears to be a complete and legal agreement waiting for the town to execute has been delayed month after month, year after year. A satisfactory resolution is urgently needed. The agreement was made in October of 2017 between the Town and North Lancaster LLC. While one of the parcels that was to have been transferred to the Town, parcel 14-15, was sold to 702 LLC in November of 2018 the other parcel 19-11 appears to have remained with North Lancaster LLC. I can't find a record of its transfer. Maybe somebody who's better at land records, could. The town also was to have been granted a permanent access easement on parcel 1-8, which is now owned by 702 LLC. Parcel 14-15 was to have been conveyed to the town within 60 days of the effective date of the amended agreement, while parcel 19-11 was to have been transferred by quitclaim deed during the initial closing between March and July of 2019. I have not heard confirmation that either action was ever completed. When the agreement was amended in October 2018 the terms included assignment and assumption that any purchaser or assignee of North Lancaster's property would perform and absorb all of the covenants and conditions, as amended, therefore, there should be no need to renegotiate the agreement. At an earlier board meeting Mr. Pacheco reported that the Capital Group was also affiliated with 702 LLC, now owned the land is expected to receive zoning relief as part of the land transfer. He was tasked with seeking a written request from the Capital Group and having that reviewed by Town Counsel. As of the last meeting of the Select Board no progress had been made on that request. I'm hopeful that issue will be addressed tonight. There appears to be no mention of zoning relief in either the original agreement or the amendment. If it is true that the Capital Group is now holding up its execution with their new demands, then their failure to meet legal obligations should prove instructive with regard to their sincerity and commitment to honoring any future agreements. If they bought a property subject to existing conditions, they should be expected to follow through with its terms. The North Lancaster land agreement was part of multiple real estate acquisitions and land transfer worth millions of dollars. The amendment allowed North Lancaster LLC to proceed with the sale of \$6.6 million worth of land in 2018. That allowed them to purchase their development schemes in North Lancaster. It is troubling that the Town has failed to receive its portion of the settlement, thereby weakening its position in future negotiations and forfeiting assets of significant value to the Town. I'd like to ask the Select Board to seek resolution of any outstanding questions and execute the agreement as amended as expeditiously as possible, the final closing date specified in the 2018 agreement is October 19, this year, 2021 which is rapidly approaching, like tomorrow.

[At this point the speaker was cautioned that he was at 3 minutes 40 seconds; he asked the Chair for another 40 seconds].

As I previously requested, the Board should seek a direct explanation from Town Counsel with

regard to why this agreement has not been completed, the parties involved, the Town Administrator, the Town Counsel, Capital Group, and North Lancaster LLC, all need to demonstrate credibility and capability before any more complex arrangements with them are negotiated. Failure to successfully act and deliver on the settlement agreement will undermine the validity of any future agreements and may provide grounds for subsequent appeals. Your attention to the resolution of this matter is urgently needed. Thank you.”

Mr. Allison recognized Carol Jackson, 40 Farnsworth Way:

“Thank you very much. At the last Board of Selectmen meeting I heard that you wanted to get the Barrett money off the agenda. It's not just the money, the \$8,000 that went out the door, without any authorization. I'm very concerned that \$8,000 did go out without any authorization and I haven't heard any concerns whatsoever throughout any of these meetings, about how \$8,000 can go out the door without authorization. We're supposed to have procedures in place, the Board of Selectmen is supposed to be signing, I believe it's \$5,000 and above or maybe all vouchers? There wasn't one signature on the voucher for the \$8,000. I just I can't believe that has not been discussed yet. Anyway that's one thing. Again, Greg stated the settlement agreement tomorrow is the deadline date, October 19, I can't believe this has been dragged on this long. Then I was going through the meeting materials and it looks like you guys had been discussing the electric service agreement and you were supposed to be voting on it, I don't recall you guys ever voting on it, but it looks like the agreement was signed. So that concerns me too, so I might be wrong, but I thought you guys are supposed to be voting on this before anything got signed. Thank you very much.”

Mr. Allison recognized Russ Willison, Chairman of the Lancaster Planning Board,

“I have a couple of things I want to talk about. Again, that electrical aggregation agreement. I actually noticed that myself that I think the new rate is listed on the Colonial Power Group site as 14994 per kilowatt hour through next December. I happened to hear about that because I was watching your last meeting, and if that rate is higher, because there was some delay in approving that, I'd like you to look at why that happened and how that can be avoided in the future because that's something that's going to have a real effect on people in Lancaster. For an average household, a household around \$350,000 that might use 500 kilowatt hours per month, that could easily cost an extra \$300 a year for them over the next year. Just to give you an idea of the impact of that, to offset that with new commercial and industrial development in town, it would take \$100 million of new development to lower their taxes by that much. So that \$300 a year would take \$100 million in new development to offset. If this was delayed because of that talk about development in town, take a take a good look at how you're spending your time because that's something that really could have saved Lancaster residents money in the next year for real. Thank you. The next to the last thing I wanted to mention again, the land settlement in North Lancaster that's crucial to shore that up. One thing we've seen on the planning board is as soon as an applicant doesn't need anything from you anymore you'll never get anything again. We've seen that, over and over again. The time to sort out that land transfer is now while they're still engaged with us and we still have things to offer them. People in Lancaster have a real chance to lose that land entirely now and that would be a shame, and that would be, we need to look into how it's gotten to this point. At your last meeting I heard someone say that we have an agreement with a company that no longer exists in reference to North Lancaster LLC. I just want to point out that my board is actually listening to a subdivision

amendment from North Lancaster LLC on land owned by 702 LLC right now. So if North Lancaster LLC doesn't exist anymore and they're not in the position to deal with us I'd like to know about that, because I can save a lot of time because they are there in front of my board right now. So I'd like you all to look very closely into how things have gotten to this point and what we're hearing, because something is not adding up. Thank you."

Mr. Allison recognized George Frantz. 13 Highfield Drive:

"Thank you, Mr. Chairman. From the tenor of the comments tonight it's obvious that people are concerned that their comments, their questions, their concerns are not being addressed. It's my impression that the design of meetings as we're currently required to hold them, because of Open Meeting Law, basically prohibit that sort of open discussion. In a previous meeting the Select Board had had mentioned that we would hold a series of open meetings and I can't stress strongly enough, that this is not only urgent but it's urgent in a short term. So I please request for the Select Board to put some real horsepower behind that thing, and set it up with a moderator such that we don't have to listen to 31 times repeated comments. I know that people feel strongly about their concerns and that's fully legitimate, but I think the rest of the attendees have the right not to be forced to listen to the same thing over and over. If you have a new comment, make a new comment and move on, so that's pretty much it. I think we're on the right track, but I think we need to design something where we can actually negotiate rather than simply stating positions and putting out minutes of a meeting where nothing was decided. Thank you."

Mr. Allison recognized Anne Ogilvie, 4 Turner Lane:

"Thank you very much. Dear Honorable Select Board members, I offer public comments tonight on items within Section VII and X on the agenda. Regarding the suggestion to move public comments to the end of the Select Board agenda, this action could potentially serve to limit the public input into important matters on the agenda, particularly when meetings are five hours in length, as has happened recently. I hope it is not the intent of the Select Board to deliberately curtail public comment. I'm sure that the elected officials of Lancaster understand how important it is for residents to have a voice in public processes so that our leaders can be aware of the many perspectives represented within the town. This is particularly true for matters which will essentially reinvent entire portions of town, and impact the homes and living conditions in Lancaster, and the investment people have made in those homes. I urge you to maintain the public comment period at the start of the meeting to enable Lancaster residents to continue to be able to provide valuable input into items placed on the Select Board agenda. Regarding agenda item VII-5, the proposal to make the Economic Development Committee a permanent committee, I think that there have been significant issues with this committee from the perspectives of both residents and the Select Board. I propose that, since the Select Board Chair, only at the last meeting, proposed to disband the committee, that more time is needed to assess the performance of the committee before making it permanent. Perhaps the Select Board members might set a 12 month timeline to evaluate the progress the committee has been able to make with regard to economic development in Lancaster, and determine at that time whether to make this committee permanent. Lastly, I respectfully request the Select Board update the residents of Lancaster on the status of the North Lancaster settlement. The expiration date on the legal agreement is tomorrow, and the actions of the Select Board and Town Administrator to seek a remedy to this four year old land transfer are not clear. The execution

of this agreement is of great relevance to both the past dealings of the companies involved in the agreement and the future proposed development in North Lancaster. Leaving it undiscussed and unresolved as the expiration date passes seems like a serious oversight and prompts many questions. Thank you.”

Chairman Allison noted that Select Board member Jay Moody joined the meeting at 6:30 pm.

III. APPROVAL OF MEETING MINUTES

Review and take action on Special Meeting Minutes September 29, 2021.

Select Board member Alix Turner offered a motion to approve the minutes of the Special Select Board meeting of September 29, 2021; seconded by Mr. Moody. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0]

IV. SCHEDULED APPEARANCES & PUBLIC HEARINGS

6:10PM Public Hearing Special Permit to Remove Earth Products

Notice is hereby given that a Public Hearing will be held on Monday, October 18, 2021 at 6:10 P.M. via ZOOM, 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. – Select Board

Select Board member Jay Moody offered a motion to approve open the Public Hearing for a Special Permit to Remove Earth Products to consider the application of James Simpson, d/b/a LLEC Inc.; seconded by Mr. Moody. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0]

Mr. Allison recognized the applicant, Mr. Simpson. Mr. Simpson explained to the Board that the property is accessible through Jungle Road in Leominster, with few people realizing that the property is actually in Lancaster. The permit has been in place for many years, and the volume of material leaving the property is “not that great” anymore as high value product has been removed, but there is still some product that Mr. Simpson would like to remove. His goal is to have a developable site when completed; they also stage product and processing there. There has been a recent walk-through with Mr. Farnsworth and Mr. Pacheco. Mr. Simpson requests one change to the existing permit to allow annual rather than twice yearly inspections by the Town’s consulting engineer.

Ms. Turner asked Kayla Larson, representing Tighe & Bond, the Town’s consulting engineer, to recap her findings. Ms. Larson explained that Tighe & Bond is a third party consulting engineering

firm hired by Lancaster to do regular inspections of the site and also to review the newest application. She agrees with Mr. Simpson's assessment that the work on the site has decreased and would agree that Mr. Simpson's request for fewer inspections is reasonable. She also noted that they have received the updated bond from LLEC.

Ms. Turner had questions regarding the scope of work.

Mr. Allison asked Mr. Pacheco and Ms. Larsen if they had any concerns regarding this permit. Both of them responded that they have no concerns at this time.

Mr. Allison recognized Phil Eugene.

Mr. Eugene asked Mr. Simpson to define what he means by storage at the facility. Mr. Simpson explained that there is some storage of topsoil from other site work and development. Mr. Eugene asked if the permit defined what could be stored at the site. Ms. Turner stated that there should probably be restrictions in accordance with zoning. She noted that this site is in an adult entertainment zoning overlay and light industrial.

Ms. Turner asked Mr. Simpson if he is "nearing the end" and if he expects this permit to be the last one before "looks for greener pastures." Mr. Simpson replied this is possibly his last earth removal permit, but that his intent is to develop the property when earth removal is complete. He cannot tell how quickly this will happen; it will depend on what the economy does in the next two years.

Ms. Turner asked that the permit include some language about no storage of hazardous soils or waste. Mr. Pacheco noted that the Town does not have a definition of hazardous soils or waste, and that this would probably be a Board of Health issue or regulation. Ms. Larsen stated that she does not have a definition available but that Tighe & Bond could probably put something together. Mr. Allison suggested closing the public hearing and then making a motion with basic language that include this request.

Ms. Turner moved to close the public hearing. Mr. Moody seconded the motion. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0]

Ms. Turner moved to approve the application of James Simpson as submitted with the amendment that there should be no storage of hazardous materials or soils upon the site. Mr. Moody seconded. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0]

V. BOARDS, COMMITTEES AND DEPARTMENTS REPORTS
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Mr. Allison recognized our new Nashoba Regional School District Superintendent Kirk Downing and Joe Gleason, Chairman of the Building Committee relative to the high school building project. It was noted that the agenda will be corrected to correctly record Superintendent Downing's name.

Mr. Gleason explained that the Building Committee has been in existence for slightly less than a year, and that they are in the “feasibility study module” of the project. The district has retained the services of an “Owner’s Project Manager” (OPM), Skanska USA.

He continued, explaining that the Town of Lancaster, with the other towns in the district, had authorized \$1.5 million to cover the costs associated with the feasibility study. Of these allocated funds, the current contract with Skanska calls for approximately \$423,000 to cover consulting services. The Building Committee met on September 28 and approved the amount of \$850,000 for designer services. We arrived at that figure through an analysis of similar projects and the costs associated with those projects. He went on to explain further how that figure had been arrived at. They are looking at the end of November, beginning of December, for the selection of a designer to work with our OPM and the crafting of the feasibility study and we are looking at about December 21 for execution of a contract with a designer. The next step for our Building Committee will be tomorrow night where they will talk about composition of our Selection Subcommittee.

Mr. Moody asked what the timeframe would be for actual construction. Mr. Gleason explained this this wouldn’t happen for a few years, and that the feasibility study will take approximately 18-24 months. The OPM estimates that the project should be complete sometimes in 2027.

In response to a question from Mr. Allison, Mr. Gleason explained why the current high school is an “aging building.” He talked about the type of construction taking place in other communities, stating that designers today are placing great emphasis on school safety. Mr. Gleason explained that the Building Committee’s meetings are not currently broadcast, but if anyone would like to see them, they should contact him and he will gladly provide a link.

Superintendent Downing introduced himself and said that the school year is off to a great start, with fabulous leadership in the schools. They are back to in-person learning. They have reinstituted monthly meetings with the Town Administrators from all district towns. Mr. Downing spoke to the current capital needs in the Lancaster schools, the most pressing of which is the boiler at the Luther Burbank/Mary Rowlandson School. He explained that he has been working with Mr. Pacheco and that they were able to activate a contract to perform the necessary work. He wanted to reassure residents that there will be functioning boilers in the school this winter.

Ms. Turner questioned how the District plans for population growth. Superintendent Downing explained how the estimates for student population are developed by the State, and that a new high school would be constructed for approximately 925 students. It was discussed that right now the Building Committee is looking at building on the current high school site, but as they move forward they may look at alternate locations. It was noted that the MSBA (Massachusetts School Building Authority) does not fund land acquisition.

- Board of Assessors to discuss Atlantic Union College tax abatement resolution

The Board of Assessors called their meeting to order at 7:13 pm, Deb Sanders and Kristen Fox present.

Select Board member Ms. Turner would like an update on the lawsuit between the Board of Assessors/Town of Lancaster and Atlantic Union College (AUC) about tax issues that have been going on since 2012. Mr. Pacheco explained that the case is AUC vs. The Board of Assessors of the Town of Lancaster, and it dates to 2014.

Ms. Turner stated that her understanding is that the case is settled and paid. She thinks it's important to discuss because many people have asked for details. Ms. Sanders explained that the school lost its accreditation in 2013, so they were assessed taxes in FY13. They filed an abatement, it was denied, they paid taxes. This just pertains to residential buildings, not educational buildings. The same thing happened in 2014, 2015, 2016, 2017, 2018, 2019, and 2020. In all these years AUC did pay their taxes, totaling over \$1,495,300. The Appellate Tax Court heard the case for years 2014, 2015, and 2016, with total taxes of over \$400,000. The Tax Court sided with AUC; the Board of Assessors appealed the decision. The appeals findings did not specify why the Tax Court sided with AUC, so the case was sent back to the Appellate Tax Court for a new decision to explain way. The new findings from the Appellate Tax Board put all the buildings as one lump sum. At this point the Board decided to try to settle with AUC. At this point AUC had sold many of the houses, and they others were listed for sale. A settlement was reached to deny interest, and to take fiscal years 2017-2020 off the table. They took the offer, so the Town had to pay, from the overlay, for \$400,000. The net result was that AUC paid \$1,095,300 in taxes. Ms. Sanders stated that if the Assessors had never done anything, they would not have received these taxes.

Ms. Turner stated that her understanding is that the Town owes or owed three years of taxes. She stated, "Normally, if we do something as a Town and we get sued, which happens more frequently than we would like, but it happens, then Insurance Council will take over." Ms. Sanders stated that not in this case; this is real estate and has nothing to do with insurance. Mr. Pacheco tried to explain further that this is not an insurable item. Ms. Turner questioned what the legal costs were for this. Ms. Turner would like to get that number, although it's too bad we lost.

Mr. Pacheco interjected that he didn't think that saying that we lost was a fair assessment, since the net result was that the Town is up a net million dollars. Ms. Turner reiterated that she would like to know what the attorney's fees were, and that it must have been significant since it had to be appealed, and that it's good that we have to learn from our mistakes.

The Board of Assessors vehemently objected to Ms. Turner's use of the word "mistake," stating that Ms. Turner had been sent an email inviting her to visit their office and review any and all documents, but that she had not been to see them. Ms. Turner stated that the purpose of this meeting was to allow the public to understand what had happened. Ms. Sanders stated that the Appellate Court goes by their own decisions, not by Mass General Law; Ms. Fox stated, "Being an assessor for at least 20 years of my career, I'm not even sure why we're discussing this with any other board. Appellate Tax Board cases and Abatement Applications for real and personal property are strictly the jurisdiction of the Assessor's Office. Frankly, the Select Board has no standing. You really don't even have the authority to question why we didn't use Town Counsel. Deb did her job, and she did her job well. If she hadn't taxed the school, we would be a million dollars in the hole right now, so the fact that she fought this in court and saved the Town, frankly, a lot of money, because I'm well aware of who the attorney was, and I've used this person myself. To say that the Assessors made a mistake by doing their job is just sheer ignorance."

Ms. Turner replied, “I am ignorant, and I admit that. That’s why, and many people are, and there’s been speculation. That’s why we’re having this meeting, not because we have purview, but because we are trying to be open and transparent and explain to people what it was. We have asked and I’ve asked many a time, and yes, in writing and in meetings, so this is an opportunity for people to understand, for better or for worse. When I say loss, I’m looking at the findings that I was given, and that was purely from the Appellate Tax Board and from the Appellate Court, so you know, this isn’t meant... We have a lot of nonprofits in town, as everybody knows, and they do contribute. People are under the misconception, I think, that they offer no taxable income.” Ms. Turner continued, drawing on the Trustees of Boston College and to Cambridge as examples. “So we need to understand and we don’t know what’s happening going forward, with the grounds that used to be Atlantic Union College. There was some rumor that it may continue to be a school, so we need to learn from our mistakes, if there were any.”

Mr. Moody stated that it was good to have this information because residents keep asking questions. Ms. Sanders noted that if the Select Board members receive questions, they should send the resident to the Assessors’ office for answers.

Mr. Allison stated that he thought collecting \$1 million was a good thing.

Ms. Turner asked again for the Board of Assessors to provide the legal cost. Mr. Pacheco told her that he could get this information for her.

Ms. Sanders moved to close the Board of Assessors meeting at 7:36 pm. Ms. Fox seconded. All in favor, meeting adjourned.

VI. TOWN ADMINISTRATOR REPORT

Town Administrator Orlando Pacheco will update the Board on the status of current projects pending.

- **American Rescue Plan Act (ARPA) Plan**

Mr. Pacheco explained that attached is a preliminary plan to start the deployment of ARPA funds. He wanted to initiate discussion to “get some traction going” and start to deploy some funds. He explained that there are six categories, loosely defined, as to how ARPA money can be spent. He has met with some of the departments locally and regionally, and some needs have been identified: 1. \$900,000 to improve water infrastructure, which would cover design of 20,000 linear feet of the worst pipes; 2. As the Select Board looks to handle or take on the DCAMM parcel, \$200,000 for site preparation; 3. A regional Social Worker to provide the Town more support in dealing with residents who may suffer from some level of mental illness; 4. Reserving some funds to maintain the Town’s COVID-19 Coordinator position, at least through next year; 5. Up to \$100,000 to improve outdoor spaces, perhaps including the Town Beach or tennis courts; 6. \$10,000 to support the \$75,000 matching grant that the North Central Chamber of Commerce needs for their regional tourism efforts.

Ms. Turner stated that she feels “a bit ill informed,” stating that she has repeatedly asked for details on the ARPA money and guidance, but she has yet to see them. She went on to explain that she had good input at a seminar from the Executive Office of Elder Affairs, but has not received what she needs from Mr. Pacheco. Mr. Pacheco stated that this topic has been on a couple of agendas with supporting documentation. Ms. Turner would like Mr. Pacheco to provide an Executive Summary with more comprehensive information.

Ms. Turner moved that this item is on the agenda for next time with an Executive Summary of how much ARPA money there is and what the opportunities are so that the Board could discuss, and department heads could be invited with requests for ARPA money.

She went on to state that this needs to be made a budget, a statement of our priorities, and we need to make sure that we’re not just rushing to spend this money but that we’re focusing on our top priorities. She mentioned that there has been past discussion about a Long Range Planning Committee, and this would fit into long-range planning.

Mr. Moody seconded the motion, and Mr. Allison called for discussion.

Mr. Moody stated that he would like the water pipes to be a priority because he has been told by someone knowledgeable that there are still a bunch of lead pipes and tie-ins.

Mr. Allison stated that he is opposed to this motion; he stated that the Board had a list of projects that weren’t complete and that he didn’t want to add to it, but would like to task Mr. Pacheco with preparing a proposal for the Board and meeting with department heads. He suggested that individual members of the Board could meet with Mr. Pacheco to get their questions answered.

Jay or myself, we can meet with Orlando individually to get every one of those questions answered I don't know why we would have a meeting to do that so that's my opinion on it.

It was confirmed that this money could be spent through 2025 if it is encumbered through 2024. Discussion continued, with Mr. Pacheco noting that more materials had been provided for the September 8 meeting, and some disagreement as to what Ms. Turner’s motion actually was. Mr. Allison reiterated that there is a motion on the floor to have a joint meeting with the Select Board, Department heads, and the Town Administrator, to discuss what the Town would like to do with the ARPA money.

Ms. Turner amended the motion, “I would offer a motion that we establish a meeting at a future date, to be determined, to discuss the ARPA money, based on an Executive Summary and some suggestions from the Town Administrator,” noting that she would be happy to work with Mr. Pacheco to do this.

Mr. Moody noted that while the Town will receive \$2.3 million in ARPA money, the list

provided by Mr. Pacheco only totals about half of that. Mr. Pacheco replied that some of the numbers are not exact yet; he noted again that he has supplied the Board with all relevant materials and that he is not sure what Ms. Turner is looking for in terms of an “Executive Summary.” She will show him some of the ones she has seen from other towns. She went on to say that she gets the agenda when the public gets the agenda, on Friday afternoons, and that Policies and Procedures call for the Select Board to get their agenda a week ahead of time or days ahead of time so that they can be better informed.

Mr. Allison called for a vote on the amendment. Jason A. Allison, No, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [2-1-0]. Motion passed.

Mr. Allison then called for a vote on the motion as amended. Jason A. Allison, No, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [2-1-0]. Motion passed.

Mr. Allison recapped that the motion passed, so Mr. Pacheco will put together an Executive Summary and there will be a meeting in the future, to be determined, on what to do with the ARPA funds.

Mr. Moody thinks that the water pipe repairs is a great priority, and he would like the DPW to send a memo explaining their priorities in greater detail.

- **Regional Agreement Amendment Advisory Committee**

The School Committee has voted to create a Regional Agreement Amendment Advisory Committee (RAAAC) to evaluate and recommend revisions to the existing Regional School District Agreement. The School Committee is requesting one member of either the Select Board or Finance Committee from each member community.

Mr. Allison asked about timeframe; Mr. Pacheco stated that a decision should probably be made at the next meeting. Mr. Allison asked for more information; Mr. Pacheco pointed out that there is an email from Mary McCarthy and some other supporting materials in this week’s Select Board packet.

The RAAAC’s first meeting is scheduled for October 27; the next Select Board meeting is November 1. Ms. Turner noted that the Board should have been notified earlier and that the Agreement has a huge impact on Lancaster. No Board member wanted to volunteer; Mr. Allison noted that even if they had this memo a week ago it would not have changed anything. Mr. Allison asked Mr. Pacheco if it was okay to ask the Finance Committee Chair to send this memo to their members, asking any interested member to contact Mr. Pacheco; it was agreed that this was best practice, giving them five days to respond.

- **Cemetery Survey Planning Grant**

The Town is seeking grant funds to hire the appropriate preservation consultants to prepare a plan for submittal for four cemeteries to be added to the National Register of Historic Places. The Town was successful three years ago with an application that led to Middle

Cemetery, Old Settler's Burial Ground being approved for designation. The current application will focus on Eastwood Cemetery, Old Common Burial Ground, North Village Cemetery, and North Burial Ground. If awarded the process will take a year to complete.

Mr. Pacheco explained that the projected budget to do this would be about \$30,000, with some grant money and in-kind services included. Mr. Pacheco noted that he has learned a great deal while working on this project, which will be helpful if he is ever on Jeopardy.

Ms. Turner asked what this gets us in terms of numbers and benefits. Mr. Pacheco explained that this funds Preservation Consultants to help Lancaster apply for the National Register of Historic Places, which is a cumbersome process.

- **70/117 Intersection Appraisals**

The Town has solicited four firms to conduct the necessary appraisals for the easements related to the redesign of the intersection project(s). We are waiting to obtain three quotes for formally making an award.

Mr. Pacheco explained that as part of the Route 17/117 Intersection project, the Town is required to have an appraiser on board to appraise for any potential easements that Lancaster might need to acquire. This was solicited and there have been two responses. He is hoping for a third response, but by the middle of this week we will be in a position to award a signed contract.

[Out of order: Relative to the previous topic, Mr. Pacheco recalled that a noted architect buried in Lancaster was Horace Cleveland. Resident Martha Moore was recognized, noting that being on the National Registry of Historic Places will be helpful in the future with grant applications for projects like repairing the cemeteries. Mr. Pacheco noted that because of Lancaster's age, and the level of documentation to be a certified local government, means 10% of all Massachusetts Historic funds are expended on certified local governments. The Town won't see a huge financial boom from the Community Preservation Act (CPA), but it is a good leveraging tool for other grants. Pursuing other designations strengthens the Town's ability to get more money later on.]

- **Building Inspector Appointment**

Mr. Pacheco reports that he is still working diligently to come to an agreement with the selected candidate. The anticipated start date is 11/1/21.

VII. ADMINISTRATION, BUDGET, AND POLICY
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1. Discussion on incentivizing vaccines for Town Employees (Allison)

Mr. Allison moved to pay each full time employee \$1,000 to be vaccinated and to have that paid out to all full time employees once we reach 100% vaccination, outside of medical and religious exemptions.

Mr. Allison further explained that the total would be about \$54,000 which would come from ARPA money. He offers this motion because he would like all employees to be vaccinated, and wants the Town to do everything it can to ensure that all town employees are vaccinated. He stated that the first point is that employees would want the \$1,000, and the second point is that employees would become advocates, urging other employees to get the vaccine.

Ms. Turner asked about part-time workers, noting that there are many part-timers, including EMTs, DPW workers, Council on Aging Meals on Wheels drivers, who still have contact with the public. She stated that her concern is first protecting residents, and secondly, “people are very skeptical of incentives.” Mr. Allison clarified that if 52 of 54 employees were vaccinated, with one medical exemption and one religious exemption, that would be 100%. He explained that employees with medical or religious exemptions would not receive the \$1,000 because they were not vaccinated.

Mr. Moody’s concern was that if everyone but one person were vaccinated, are the other employees going to drive him out of town, or make life miserable for him? Mr. Allison said that the reality of that scenario is that yes, there will be some unhappy people, but there will be 53 people vaccinated, and that’s a great scenario for everybody.

Ms. Turner questioned Mr. Allison, stating that at a previous meeting he had said that if 90% of employees were vaccinated, that was awesome. He recalls stating that the number was 92-94%, but that he has heard from many residents that they would like the number to be 100%. Ms. Turner said that mandating something is not something that she likes to do, and she believes in people’s right to choose. She said that many people are fearful of the vaccine, and that if she is afraid of stepping in front of a moving car, \$1,000 isn’t going to change her mind.

Ms. Turner noted that Sandi Charton, HR Director, had sent the Board members a testing option. Ms. Turner would like a testing option as an alternative to try to get us to a better, healthier, and safer place. She fears that this motion would result in repercussions and divisiveness, stating, “And the fact that it doesn’t deal with the part timers and so on, but I think there were other ways to try to get us better.”

Mr. Allison called for a vote, noting that Ms. Turner should probably abstain since she is a full-time town employee.

Jason A. Allison, No, Jay A. Moody, Abstain, Alexandra W. Turner, Abstain. [1-0-2]. With no majority, the motion fails.

Mr. Moody noted that he abstains but would be in favor of bringing up the topic again after having a chance to think about it.

2. Discussion on resuming in person meetings (Allison)

Mr. Allison said that he is not ready to make a motion on this topic but would like to

begin having a discussion. He thinks that if we're asking kids and teachers to have in-person learning, and businesses are open, that it's not unreasonable to ask the Board to meet in person. He agrees that Zoom meetings have been great and have enabled a lot of success, but thinks that the reality is that the Board should meet in person. He would like to discuss this over the next two or three meetings to formalize a plan, something that both the Board and residents are comfortable with.

Mr. Moody has talked to Mr. Pacheco and Ms. Rocco about the hybrid method used by the Town of Stow, where the meetings are in person, but there's also a camera that follows the meeting and ties in with Zoom. He likes the convenience that Zoom meetings offer to many people.

Ms. Turner said that she appreciates Mr. Allison's point, and that we need to lead by example, noting that many high risk residents are still not leaving their homes, and she would support a hybrid model. She noted that there would need to be good wifi, and Mr. Pacheco and/or Ms. Rocco would need to help facilitate because a hybrid meeting is more complicated. She thinks that there need to be in-person meetings because Zoom does exclude people who have technical challenges. She notes that at this point in time there are 47 people signed on to this meeting, more than could probably fit in the meeting room.

Mr. Allison will ask Mr. Pacheco to put this item on Unfinished Business so that it can be discussed at the next meeting, and would also ask Mr. Pacheco to put together a proposal for hybrid meetings.

3. Discussion on moving agenda item "Public Comment" to the end of the Select Board Agenda (Allison)

Mr. Allison noted that there has been a great deal of public input on this topic. He has responded to everyone who has emailed about this asking how this could be handled differently, but states that he did not receive any good answers. *Mr. Allison moved that Public Comments move from Section II of the Agenda to after Section V, after Public Hearings and Board, Committee, and Department Reports.* He explained that this would help people who are waiting for scheduled appearances.

Ms. Turner seconded the motion for discussion purposes.

Ms. Turner stated that this is not a bad idea. She thinks that putting Public Comments at the end of the meeting might seem to be less transparent. She would like written comments to be posted right away on the website so that people could be acknowledged and thanked, and that rather than reading the emails, people could be directed to read them on the website. If a large number of people wanted to speak they would be given the chance, perhaps curtailing comments to two minutes and then allowing people to speak again after everyone has been given a chance. She thinks that there should be some way to shorten this part of the meeting since at the last meeting Public Comments took an hour and fifteen minutes.

Mr. Moody agreed that this is a good compromise, allowing invited guests to be seen in a timely fashion without moving Public Comments to the end.

Mr. Pacheco noted that if the Board wishes to make this change, then they should make sure that the next meeting's agenda is reflective of the change and then also send out to the Board an updated Policies and Procedures, noting the change.

Mr. Allison asked Mr. Pacheco to send this to all Board members so that it can be voted in at a future meeting. Ms. Turner asked if Policies and Procedures could be changed at this point in order to finish the topic; Mr. Allison responded no, that the document had to be gone through and marked up.

Vote taken on previous motion; Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0]. Motion carried.

4. Discussion on the existing Select Board Policy and application regarding Nepotism Pertaining to Service on Board and Commissions (Allison)

Mr. Allison noted that the time was 8:30 pm with 30 minutes left to the meeting. Ms. Turner asked why the meeting was scheduled to end at 9pm. Mr. Allison stated that he "time boxed" this meeting for three hours.

Mr. Allison explained that this topic was before the Board due to a citizen complaint. Recently, a committee re-appointment was denied by the Select Board because of nepotism. The resident was upset because he/she felt that they were de facto singled out as an example of nepotism, whereas the situation exists on other boards. Mr. Allison stated that the Select Board needed to make transparent their feelings on nepotism and how to manage appointments on boards. He asked Mr. Pacheco to explain nepotism and to give a little history to clarify past practices. He stated that this is not meant to indicate that past practice was wrong or to cast judgment, but to understand where the issue stands today.

Mr. Pacheco explained that the original complaint was a result of the Animal Control Commission having a husband and wife on the Commission. The way we define nepotism is members having an immediate family member, defined as a spouse, son, daughter, father, mother, sister, brother, grandmother, grandfather, aunt, uncle, niece or nephew, or the following in laws, son, daughter, brother, sister, mother, or father, serving together on the same board or committee. The problem that we've had is that it has been very difficult to attract members to some boards and committees, so the Select Board, at the time of the appointment, this Board or a very recent Board chose not to make the appointment on the Animal Control Commission. What then happened was we have two brothers who serve on the Agricultural Commission. When that appointment was made, (Mr. Pacheco believes that the Select Board was aware) there was also no one else willing to serve. On the Agricultural Commission at the time, they had already had one death of a five member committee, leaving them with four

members. They still today have only four members. So if you bring them down to three (Mr. Pacheco noted that he has advised the Agricultural Commission of this discussion) the concern might be it's very difficult, it could be very difficult to reach a quorum with three members of a five member board, because all three members would have to be available all the time.

Mr. Pacheco continued, noting that the Agricultural Commission is probably not where you're seeing a lot of risk, because they don't meet all that regularly. For the most part, their most recent agendas have revolved around Chapter 61A applications and land issues that we circulate to various boards and committees.

Mr. Pacheco stated that, in a nutshell, is the nepotism issue and a little bit of background. He said that it is not that we wanted relatives serving together, although sometimes it isn't that bad, and it's not that they're in "cahoots" because they are related. They still need to follow all disclosure and ethics laws. Where the problem arises is that when people living in the same household are on a board or committee together it becomes an Open Meeting Law violation, and the board or committee in question is now exposed to Open Meeting Law violation. This is just the simple nature of the relationship, and that, according to Mr. Pacheco's understanding, is why the nepotism clause was inserted. To the best of the Select Board's ability this is followed, with the understanding that boards and committees still need to function, and that they need bodies – preferably knowledgeable bodies – to do so.

Mr. Moody said that he sees no reason why, on some of the "minor," if you want to call them minor committees, like Agricultural or Animal Control, that are really hard to get people to be on... He thinks that we should separate the major committees, the ones that really make a difference. Animal Control doesn't make much difference, other than helping the Selectmen stay out of suits with animals. He would like the Select Board to list important committees, versus some committees that have a hard time even finding people that are interested in doing what needs to be done.

Ms. Turner said that she understands the background and that initially when policies and procedures were written, this was put in place, as it is in a lot of cities and towns, to avoid family legacies, people who did agree and liked each other, serving on the same committees. She said that the Select Board has the power of appointment, so the Board has a choice of people, but the concern is that the Board did single out somebody. She stated that when the Animal Control appointment came up, she had asked Mr. Pacheco to provide a list of anyone on all boards and committees that could be affected by this; she states that she has checked the tape of the meeting to ensure that she did ask for this but has not seen it. Her concern is to be consistent in the Board's application, especially if it were recently enforced. On the other hand, she thinks that the Select Board needs to recruit more aggressively for board and committees, but it is difficult to get people to fill positions.

Mr. Allison stated that in his time on the Board he has learned not to judge or to criticize a previous Board's decisions. He is inclined, basically, along the lines of Mr. Moody's

point, put this at the discretion of the Select Board, especially for appointed roles. The Board's discretion would need to align with the importance of the Board, but the consideration of letting boards meet quorum should be considered. He states that he does not believe that people are inherently nefarious and trying to do bad things; rather, people to want to be on boards want to serve.

Mr. Allison asked Mr. Pacheco if action needed to be taken on this topic. Mr. Pacheco stated no, not unless the Board wishes to remove someone who is already appointed. He suggests that the Agricultural Commission appointments will expire at the end of this fiscal year and that the Board might be more comfortable addressing the matter then. Mr. Pacheco has explained the situation to the Agricultural Commission, advising them that they should attempt to recruit more members.

Ms. Turner suggested amending the policy/procedure, either at this or at another meeting, to add "except at the appointing authority's discretion" or we could say "prefer not to" or the Board could invoke the Rule of Necessity for voting. She noted that perhaps instead of classifying committees as major and minor, perhaps committees could be classified as major or supporting. Mr. Allison asked Ms. Turner to mark up the existing policy and to send it to Mr. Pacheco, who will then distribute it to the other Board members for review and approval at the next meeting.

**** following items taken out of order ****

Mr. Allison noted that there are 15 minutes, left in the meeting, and recommended that the Board prioritize remaining items to make sure that they get done tonight. First, most important thing is the resignation and then the second being, the North Lancaster settlement. He asked the Board their feeling on this. Mr. Moody noted that the Temporary Mobile Home permit was essential. The Board agreed to move to Licenses and Permits. *****

Following agenda items were not discussed

5. Discussion to make the Economic Development Committee a permanent committee. Vote may be taken (Moody)
6. Discussion - Electric Aggregation Agreement (Moody)
7. Site Walk – Keating (Moody)
8. Landfill mowing (Moody)

VIII. APPOINTMENTS AND RESIGNATIONS
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Resignations

Finance Committee – David DiTullio effective immediately.

Mr. Moody moved to accept the resignation of David DiTullio from the Lancaster Finance Committee, effective immediately, with thanks for his years of service. Ms. Turner seconded. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0]

Mr. Allison asked Mr. Pacheco to explain the process for appointing a new member to an elected Board. Ms. Turner noted that coming into budget season the Finance Committee would probably like a full board, suggesting that the Board request letters of interest to be submitted by November 9 so that a vote can be taken at the November 15 meeting, preferably in joint meeting with the Finance Committee. Mr. Allison stated that the Finance Committee needed to be part of the process and to provide the Select Board with their recommendations, so a vote should not be scheduled at this point, or until the Finance Committee has decided when they are going to meet. Ms. Turner would like to invite the Finance Committee to the meeting of November 15; Mr. Allison agreed that this would work. Mr. Pacheco will set this up.

IX. LICENSES AND PERMITS

1. Town of Lancaster Application for use of Town Green/Gazebo

- Annual Halloween on the Green to be held October 31, 2021, from 4:00pm to 8:00pm

Mr. Moody moved to approve the Town of Lancaster application for use of the Town Green/Gazebo for the Halloween event on October 31, 2021, from 4pm to 8pm. Ms. Turner seconded. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0]

2. Temporary Mobile Home Permit

- 207 White Pond Road

Mr. Pacheco explained that this permit request is due to a fire on the site. A mobile home is being put there while the house is being repaired. Tony is withholding Occupancy because technically Code requires the Board's approval before issuing an Occupancy Permit, so the family is currently staying in a hotel. Final Inspection and Electrical Inspection have been completed. Mr. Pacheco has no concerns.

Ms. Turner moved to grant a Temporary Mobile Home Permit for 207 White Pond Road. Mr. Moody seconded. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0].

X. OTHER/UNFINISHED BUSINESS

- **Code of Conduct Policy**

The HR Director is currently compiling comments received into a document for the Select Board. This should be available for the Board's review in a couple of weeks.

- **North Lancaster Settlement**

Mr. Allison stated that when the Board last addressed the North Lancaster settlement agreement, about a month ago, the Capital Group gave us a letter saying that they wanted

to meet. We decided as a board not to assign a liaison and meet with them. He asked Mr. Pacheco for further updates.

Mr. Pacheco said that he has reached out to Capital Group, letting them know loosely what the Board's position is with regard to the settlement agreement and what the expectation is with a deadline tomorrow. He stated that he is sure there will be some correspondence from them tomorrow and it probably won't be a deed to the parcel. He advised that the Board can look at what they send, and at that point the Board can meet and decide what it wants to take for next steps. Mr. Pacheco continued, stating that as the Board has defined the situation, they now have, he thinks, grounds to initiate legal action if that's the course the Board wishes to take.

Ms. Turner asked Mr. Pacheco to quickly update the Board on what he said the Board's position was, stating that the Board did invite the Capital Group to any meeting and that the door was open, whether or not they were willing to come. She stated that the Board did offer that option. She wanted to know what Mr. Pacheco told them the Board's position was, because the Board has been pushing to get this done.

Mr. Pacheco replied that he told them that there was an expectation that this would be addressed before the deadline. He stated that they have some objections to some things that are in the agreement, that, in their opinion there are some items that the Town is not interpreting in the way that they would interpret them. He stated that they said that they would send some correspondence and that his response to the Board is that the Board needs to figure out how they want to respond to this. He again told the Board that he would have a response tomorrow. Ms. Turner clarified that Mr. Pacheco told the Capital Group that the Board expects the agreement to be completed as per the previous Board's agreement.

Ms. Turner asked about the previously discussed title issues. Mr. Pacheco stated that these issues have all been resolved and that the encumbrances are gone.

Mr. Moody stated that he thinks that the Board needs legal opinion to decide what to do. Mr. Pacheco replied that he had sent the Board an email today with regard to what Town Counsel was proposing. Mr. Moody stated that he had not seen it; Ms. Turner noted that it's difficult to look at material like this during a workday; Mr. Pacheco replied that he had sent it in response to an email that Ms. Turner had sent over the weekend. Ms. Turner stated that she will work with Mr. Pacheco and the Chair if there is a need to call an Executive Session. Mr. Moody stated that whatever kind of meeting it is that he wants Town Counsel to be present.

Mr. Allison reiterated that he thinks the Board making a mistake. He continued, saying that we have a landowner in town, who has said that they would like to meet. We decided not to meet with them, and then what we're going to do now is not meet with them and then decide if we're going to sue them. He said, "I just think that's really not the way to do business. I'm not saying Capital Group is right. I'm not saying that they don't owe us the land. But, as I said in previous meetings, I think our approach here is wrong, and if I try to put myself in their shoes, we're not we're not having any conversation." He continued,

stating that he still thinks that there should be a liaison assigned to go and speak to them, like any other business in town. He stated that this would be the professional way to handle the situation. He said that he will respect the majority decision, but that he would be remiss not to say that he thinks the Board is making a mistake in their approach.

Mr. Moody stated that the Board did not say that they did not want to meet with the Capital Group, asking if they had been sent a written invitation. Mr. Allison asked Mr. Pacheco if he had talked to Capital Group about setting up three sessions with them. Mr. Pacheco stated that Capital Group is very open to having a community forum. He said that in order to meet with the Select Board, he thinks that Capital Group is going to want to have an understanding of the parameters around the agreement. He stated that he guessed that their concern is that if this matter escalates to litigation, then there's no point getting in a room with the Board. Mr. Pacheco stated that from Capital Group's side he understands this, but he had explained to them that the town cannot understand where they're coming from based on the agreement before the Board. He explained further that some of the terms used are getting co-mingled, adding confusion, and that in the eyes of Capital Group, the whole process was designed around an ICOD approval. With that ICOD approval, all these things were supposed to happen. He said that he thinks that when Capital Group talks about zoning changes, this is they're talking about, and that perhaps when this was not approved, so that they're wondering that if they don't have a project, why would they be transferring land. In the agreement, there are maybe overtures of a larger project, but it is not cut-and-dried. Mr. Pacheco offered the opinion that getting into court rarely helps with issues like this, and that for the most part cooler heads can generally prevail. He suggested that there has been more finger-pointing than finding of solutions, and he believes that Lancaster is currently perceived as hostile.

Ms. Turner stated that it was said earlier that things get lost in the minutes, and that if Mr. Allison were to review the tapes, he would find that it was not true that the Board did not want to meet with Capital Group, and in fact, she could point out the exact point in the tape where Mr. Pacheco was asked to invite them in. She stated that there are two things, first, actually one of her agenda requests that has not been talked about, was to have roundtables or forums, and this needs to be fleshed out. Secondly, as far as speaking to the Capital Group, she thinks that they would welcome the opportunity to come in, and who better to tell their story than them, rather than listening to the Board talk about their intents. She continued, stating that she takes umbrage with Mr. Pacheco's characterization of Lancaster as hostile because it sets up as us versus them situation. People are asking good and tough questions. "There are people who are strong supporters like yourself, Jason, and others. To be honest, I think there's a lot of great potential up there. Lancaster should stop marketing itself as the town that is hostile and will take everything. I like to say we're a town well situated between major commuter routes, we have green fields, we have great schools, we've got good support, and a low commercial tax rate. We are a really great town and for a business, this is a perfect place to situate. Yes, something is going to happen up in North Lancaster. I think anybody is going to acknowledge that. We need to come together to shape this in a better way, not "why would anybody want to talk to us?" And not "you know nothing, absolutely nothing, is going in there." I don't think you see that. I think there's maybe 10% on either side, and 80% of the people are pretty reasonable. But if we

don't have conversations, if we're just sticking to our own sides, and we just keep on doing this, it's really frustrating. We need to get people in to talk.” She stated, “Frankly, when the settlement agreement was struck I didn't like it, but I respect it, just like you do. Previous Boards of Selectmen struck this in an attempt to come together and get back taxes that hadn't been paid, and to get land that was important for conservation, and to allow people to get this parcel so they could develop.” She continued, stating that this was designed as a pro development piece.

Continuing, Ms. Turner stated, “Whether or not they thought it would it was tied to some zoning, this is what this was new to us last meeting to meeting, so once we asked Orlando to get why they thought that, and to get us some feedback, and get us a letter. Well we haven't seen it, so all we can go by as what's written and we heard -- how many times we sat here and heard that the settlement agreement's almost done, it's almost done, it's just a title issue, it's just a title issue. Okay, finally, we got the title issue done, and that title issue was done in time to be signed. There was an extension, to be clear, so the extension ends tomorrow. How we go forward with that I don't know but I think this is just something that we have that change the dialogue on this, we have to be more inclusive, both for the Capital Group, and also for people who have really just concerns.”

Mr. Moody would like a letter sent to Capital Group asking them to come to meet with the Select Board, with members of the Board copied. Ms. Turner stated that she had asked Mr. Pacheco to do that too. Mr. Allison asked Mr. Pacheco to send a written letter to the Capital Group, with copies to the Board, requesting them to

Jason Allison: All right, so uh Orlando, would you like to write them a written letter CC the board requesting them to come see the Board in open session to talk about Lancaster settlement agreement.

Mr. Pacheco said, “Consider it done.” He stated that he sees some of the rhetoric, and that when Ms. Turner says, “Hey, you know, Orlando's being divisive,” first of all, what he is trying to do is to project their concerns because both sides might need to change their dialogue a little bit. He continued, saying that the Capital Group has concerns that everything that they have proposed, in their eyes, the Town has said no to, and then people have made a number of ethical accusations against them. No one has ever provided any proof; everybody's just said things, so that is why their perception is that people are being hostile. These are very serious allegations. Mr. Pacheco stated that he does not think the Town is necessarily being hostile, but he thinks that there is real concern, adding that this is what happens with every development.

Ms. Turner stated that Mr. Pacheco's statement was divisive. He replied that he cannot let her say things like that about him without responding.

Mr. Allison recapped, noting that Mr. Pacheco will send the letter discussed, and reminding the Board members that the Capital Group has already sent a letter asking one of the Board members to meet with them. Ms. Turner stated that she never saw this letter; Mr. Allison stated that she had received it a month ago and that this was why he made the liaison

request.

- **Division of Capital Asset Management and Maintenance (DCAMM)**

No discussion or action.

- **Aggregation**

The Select Board has received a memo from the Energy Commission following their meeting with Colonial. Mr. Pacheco reports that he is expecting official pricing from various suppliers to service the aggregation load tomorrow. Mr. Pacheco advises that the best approach right now is a 12-month contract, at which point we could evaluate the impact of additional renewables. He noted there will be some “sticker shock” with the electric bills.

- **Gazebo Ramp**

Materials have been ordered and the goal is to have this completed by Halloween is on target. Mr. Pacheco reported that Dig Safe will need to be called for this project.

- **Status Barrett Planning Group**

Mr. Allison directed the Board’s attention to a memo from Mr. Pacheco on this topic. He notes that Mr. Pacheco is “trying to make it work” and that he was displeased with the way that the Planning Board Chairman had spoken to the Town Administrator. Ms. Turner asked that this discussion be continued at the next meeting so that she has an opportunity to review the material.

- **Audit Services**

Powers & Sullivan is under contract for the FY22 Audit. Mr. Pacheco reported that this is an exempt service but can do a quote. Ms. Turner would like to assemble an Audit Committee.

XI. NEW BUSINESS

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

XII. COMMUNICATIONS

➤ The Select Board’s next regular meeting will be held via Zoom on November 1, 2021, at 6:00pm

XIII. ADJOURNMENT

Mr. Allison moved to table all remaining agenda items from this meeting to the next Regular Select Board meeting on November 1, 2021.

Ms. Turner asked Mr. Pacheco how this should work. Mr. Pacheco explained that there are no regulatory requirements to any of these items, nor is there an imminent deadline to any of them. He noted that, in fact, some items may be resolved prior to the November 1 meeting.

Mr. Allison called for a vote. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Abstain. [2-0-1]. The motion passes.

Select Board member Alix Turner offered a motion to adjourn the meeting at 9:07 pm; seconded by Mr. Moody. Jason A. Allison, Aye, Jay A. Moody, Aye, Alexandra W. Turner, Aye. [3-0-0]

Respectfully submitted

APPROVED

Jay M. Moody Clerk
Approved and accepted: December 6, 2021