

## Select Board Meeting Minutes

Wednesday September 24, 2019 held in Room B-129, Swampscott High School, 200 Essex Street, Swampscott, MA

Members Present: Spellios (Chair), Dreeben, Titcomb, Spathanas, Hause

Members Absent: None

Other Town Officials Present: Sean Fitzgerald (Town Administrator), Ronald Mendes (minutes taker & Asst Town Administrator), Gino Cresta (Asst Town Administrator/DPW Director), John Picariello (Chair, Earth Removal Advisory Committee); Kevin Breen (Fire Chief); Marzie Galazka (Dir. Of Community Development); Molly O'Connell (Senior Planner); Marianne Hartmann (Chair, Board of Heath); Attorney Katherine Laughman (KP Law – Town Counsel)

Others Present: See attached Sign-in Sheet

Mr. Spellios called the Select Board meeting to order at 7:15 pm.

Mr. Spellios introduced the individual Selectmen to the audience, and then led the meeting in the Pledge of Allegiance.

Mr. Spellios explained that there are three sign-in sheets for tonight. One is for the Aggregate-Blasting item on the agenda; a 2<sup>nd</sup> sign in sheet is for the Marijuana regulations and a third is for Public Comments.

Mr. Spellios explained that the National Grid public hearing will be delayed to later in the meeting and entertained a motion to table this item. Motion made to table (Dreeben), 2<sup>nd</sup> (Spathanas) it was VOTED to table the hearing on the National Grid petitions.

Mr. Spellios reviewed the agenda for the board members and proceeded to the discussion on the Aggregate Industries blasting concerns item. He explained that there have been several concerns regarding blasting at the Aggregate quarry raised in prior meetings. Since this issue was raised in public comments in prior meetings, the board did not have a chance to respond. Tonight, town staff are here to discuss this issue in more depth than the board has been able to in prior meetings. Mr. Spellios explained there will be a quarry at that location for the foreseeable future, he felt that the blasts appear stronger than they have in the past. Mr. Spellios then turned over the floor to Chief Breen, Mr. Picariello, Mr. Fitzgerald and others to present on this issue.

Chief Breen then stepped through the presentation on blasting that has been prepared (copy of presentation attached). Chief Breen said that one of the issues they are struggling with is that blasting permits haven't been issued in several years because the blasting is being done over the town line in the City of Salem. Chief Breen explained the regulatory process that is involved with obtaining a permit to conduct blasting operations. After blasting operations have been conducted, Chief Breen explained the process for completing a blasting complaint form for anyone alleging that their property was damaged, which must be filed with the Fire Department within 30 days of the blast. The filing of this form initiates a legal process that includes a review of blasting operations to and is ultimately referred to the State Fire Marshall's Office. If there was a violation indicated on the form, the State Fire Marshall will investigate. Chief Breen and Mr. Picariello then reviewed the blast report, including video, of blasts that occurred on September 16 & 17 to provide context and explained the process of notification when blasting is to occur. Chief Breen then compared the September 16<sup>th</sup> blast report to the August 14<sup>th</sup> blast report, which is when there were numerous complaints. All the blasts were within the regulatory

thresholds, including the August 14<sup>th</sup> blast. There were then some questions from board members asked on Chief Breen and Mr. Picariello regarding the earth removal permit and other blasting regulatory issues.

Mr. Picariello then explained some points that will be considered for amending the earth removal permit with Aggregate. Among these are changing the location of the warning siren; limiting the quantity of blasting material; ensuring that all blasts are videoed; and expanding the call list program to better warn neighbors when blasting is going to occur. Over the next few weeks ERAC and Aggregate will be conducting hearings to hear additional feedback from residents regarding the blasting. Mr. Spellios then raised the issue of dust. His experience is that the area surrounding the quarry seems to be covered in a thin film of dust. He asked what could be done about the dust problem. Mr. Picariello then mentioned that there really isn't anything being done about the dust from blasts.

Mr. Spellios then asked for comments from the public at this time. He then asked members of the public in attendance if they would like to make comments. Residents stood up and spoke about damage, including crumbling stairs, and walls. Some wanted to know if there is any recourse for incremental damage that occurs over time. Some who have been living in the neighborhood many years are often scared by the blasts and has dust both inside and outside her property. One resident came home once to a shattered sliding glass door, which cost over \$1,000 to have the door replaced. Some residents also complained to the MBTA about cracks but feels that the blasting is causing damage as well. Concerns were raised about health quality and air quality for people in the area. Many noticed the dust and noise levels being higher. Other residents said that they never hear the sirens warning of blasts. It was said that in the summer he can't open his windows because of the dust.

Ms. Titcomb then asked if there was ever a dust study conducted and Mr. Picariello said that he has conducted dust studies. The outcome was that the quarry did contribute somewhat, but the dust came largely from the train and from traffic.

More residents came forward to thank the board for following up with the neighborhood's concerns but were concerned that the blasts have lately shaken foundations and caused a film of clay dust both inside and outside their property. One resident was concerned that Aggregate was recently on her property without her permission and also said that Aggregate has blasted outside permitted hours. There were requests that pre-blasting surveys be conducted as soon as possible to document the damage being done. Residents want to know what has changed in the past few months to cause the additional inconvenience over this past summer. Many people don't know where to call when they have complaints. One resident said her foundation is cracked, her stairs are separating from the foundation. She said that she was never made aware that she could file a complaint. One person opined that high humidity is likely the cause of feeling a greater impact. Another asked if the quarry retains a geologist and suggested that Salem State has a geology program. He said he has never heard a siren from the quarry. He said that when he lived in that area he often was pelted by rock. He said that this has been going on for years and nothing was done about it. A new resident of 3 months at is concerned if there are environmental & health quality issues from the dust. He wanted to know if there are concerns about cancer risk from the pond in that area. He is also questioning whether the data that was collected is accurate since it is from Aggregate's own data collection.

Mr. Picariello explained that the Swampscott Health Dept. regularly conducts testing of the water at Foster's Pond. Aggregate continually must pump water out of the quarry into Foster's Pond because if they didn't pump the water the quarry would fill in with water.

Ms. Hartmann, Chair of the Board of Health said that in that past Aggregate would send people out to wash windows in the neighborhood, but that doesn't happen anymore. She said that she often hears the siren, but she has noticed a change recently. She also said that the crusher seems to be more active. It is a constant background noise that she hears all the time. She opined that could be the cause of the additional dust. She said that in the past there wouldn't be blasting on overcast days, but lately there are more blasts on "low-ceiling" days. There was then some discussion from Mr. Spellios about the scope of the earth removal permit because on the Salem side of the line, the City of Salem has no earth removal regulation like Swampscott. A resident who lives on Essex Street also expressed concerns about violations she alleges of the Wetlands Protection Act among other issues. She said she hopes that the Town will take the concerns to heart when contemplating further action.

Mr. Spellios then invited representatives of Aggregate hold a series of conversations with town officials in order to have a deeper discussion but invited Aggregate to make brief comments at this time. Mr. Kurt Hine, operations manager at Aggregate Industries. He appreciates the time that residents have taken to share their concerns. He expressed that Aggregate does want to be a good neighbor and will work through the issues people are having at this time. He said he appreciates the opportunity to work through issues. Mr. Spellios asked Aggregate for copies of all state and local permits that Aggregate has throughout the state and expressed that Aggregate needs to be a good faith partner in the process of renewing its annual earth removal permits. He also asked that the Town be more involved in the notification system for providing notice when blasting is going to take place. Ms. Spathanas commented on the concern about equipment being placed on private property without consent and asked if there was any explanation. Mr. Hine from aggregate said he would investigate this further.

Mr. Spellios then entertained a **MOTION** (Dreeben) and **SECOND** (Spathanas) and it was **VOTED** to take the National Grid matter off the table and return to that agenda item. National Grid is petitioning to place and install conduit in the area of Salem Street into the One Salem Street complex in order to mitigate that neighborhood's often loss of power and a representative of National Grid was present to present the petition. Mr. Cresta asked that National Grid do a better job of repairing the trenches that they cut into the street. The condition to repair the trench is extended to Spring 2021 because the actual work by National Grid likely won't be conducted until Spring 2020.

**MOTION** to approve (Dreeben) with **SECOND** (Titcomb), with conditions stipulated by Mr. Cresta, it was **VOTED** to approve the petition. The representative of National Grid then discussed the petition for Bellevue. Mr. Cresta has no issues on this petition. There was then some discussion. **MOTION** was made to approve (Hause), **SECOND** (Dreeben) and it was **VOTED** to approve the petition.

Mr. Spellios asked if there was anyone present on any of the issues on the Consent Agenda. Mr. Brinn from Extenet was present on the issue and explained the substance of this petition. This is the first such petition that was presented in the Town of Swampscott. Since this is new petition, Mr. Spellios explained that this will likely be tabled this evening for the Town to become more familiar with what the petitioner is requesting. Mr. Brinn explained that this is a new technology for "small cell" technology in connection with 5G cell service. Mr. Brinn indicated that there is a time limit on this petition under FCC guidelines.

Mr. Spellios then proceeded to the consent agenda and explained the purpose of the consent agenda. Mr. Spellios objected to the Extenet petition being on the consent agenda, so it was removed with no action being taken at this time on this petition. Also, the \$8,080 donation from Bent Water Brewing Co. is to be expended as follows (subject to receipt of a gift intent letter acknowledging this arrangement): \$2,500 to be used as seed money for programs similar to the Beer Garden from which these funds were generated, and the remainder for the benefit of the Fish House.

**MOTION** was made (Spathanas) and **SECONDED** (Dreeben) to approve the consent agenda as modified and it was **VOTED** that the consent agenda as modified is approved.

Mr. Spellios then asked if there is a motion to approve the appointment of Paula Pearce as an Associate Member of the Zoning Board of Appeals. **MOTION** was made (Dreeben) and **SECONDED** (Titcomb) and it was **VOTED** to approve the appointment of Paula Pearce as an Associate Member of the Zoning Board of Appeals.

Mr. Spellios then called a brief recess to the meeting at 9:15pm, recalling the meeting to order at 9:23pm and asked Attorney Laughman of KP Law (Town Counsel) to present to the board on Municipal Regulation of Adult Use Marijuana. This presentation is not to discuss any specific proposal, but rather to discuss the underlying regulatory environment that is present. Attorney Laughman then stepped through a prepared presentation (copy attached). After the presentation Mr. Spellios made some remarks about conversations that have taken place and the plan to continue discussions about regulations that the board may wish to entertain. There was then some discussion amongst the board about the responsibilities of the town about how to manage its responsibility to regulate this new business.

Mr. Spellios then asked if the board would like to set Monday November 18<sup>th</sup> as the date for a Special Town Meeting. The Warrant will be opened at the next board meeting. **MOTION** was made (Dreeben) and **SECONDED** (Hause) and it was **VOTED** to set November 18<sup>th</sup> as the date of a fall Special Town Meeting.

Mr. Spellios asked of Mr. Fitzgerald had anything to report. Mr. Fitzgerald stepped through his prepared Town Administrator's Report that was provided to board members in advance.

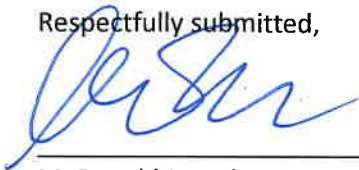
Mr. Spellios then opened a discussion about the second October meeting date and time and it was the consensus of the board that the second October meeting will be held Thursday Oct. 17<sup>th</sup> at Swampscott High School. The next meeting will be Wednesday October 2<sup>nd</sup>.

Mr. Spellios would like to continue the discussion about goals on the next meeting. Mr. Spellios asked if any board members had anything further. Mr. Hause raised an issue brought to him regarding facilitating beach cleanups after storms. There was some discussion about groups that conduct clean-up programs on the beaches and other places at times. Ms. Dreeben wanted to give ReachArts a shout-out about PorchFest. It was a successful neighborhood event.

**MOTION** was made to adjourn (Hause) and **SECONDED** (Titcomb) and it was **VOTED** (unanimous) to adjourn.

Meeting Adjourned 9:57pm.

Respectfully submitted,



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M. Ronald Mendes, Asst Town Administrator, Admin. & Finance

Minutes APPROVED by vote of the Select Board 10/17/2019