



**Town of Swampscott
Select Board Meeting Minutes**

Wednesday, March 4, 2020 - 6:00 PM

Swampscott High School, B129, 200 Essex Street Swampscott, MA 01907

MEMBERS PRESENT

Peter Spellios (Chair), Naomi Dreeben (Vice Chair), Don Hause, Polly Titcomb, Laura Spathanas

MEMBERS ABSENT

Laura Spathanas

OTHER TOWN OFFICIALS PRESENT

Sean Fitzgerald, Town Administrator; Allie Fiske, Assistant to the Town Administrator; Ron Mendes, Assistant Town Administrator of Administration and Finance; Chief Ron Madigan, Police Department; Detective Ted Delano, Police Department; James Potts, Deputy Fire Chief; Attorney Jeff Blake, Town Counsel – KP Law

The meeting was called to order at 6:33pm

PUBLIC COMMENT:

No

UNDERGROUND FUEL STORAGE

6:30pm Public Hearing: Hearing will be held for all parties interested in an application from Global Montello Group Corp, 800 South Street, Waltham, MA 02454 for proposed fueling system renovations for the existing Mobil Gas Station located at 525 Paradise Rd. Swampscott Mass. The owner of the property Global Montello Group Corporation would like to amend their current underground storage license. The owner of the gas station proposed to increase their existing fuel storage license from 30,000 gallons to 36,000 gallons

On **MOTION** (Naomi) and **SECONDED** (Hause) a **ROLL CALL** was performed to table the public hearing. Spellios (yes) Titcomb (yes) Spathanas (yes) Hause (yes) Dreeben (yes).

SAILING

Danielle Strauss spoke to thank the Friends of the Swampscott Sailing who have helped the Recreation Department build a sailing program and a high school sailing team. They also help with maintenance, hauling and purchasing of three 420 sailboats so they can accommodate a high school sailing team, which will be a co-op team with Salem.

Danielle Strauss introduced Tim Zimmer who is the President of the Friends of Swampscott Sailing who spoke a little bit about what the Friends of Swampscott Sailing do. The Select Board thanked for the organization's generosity.

UNDERGROUND FUEL STORAGE (resumed)

On **MOTION** (Naomi) and **SECONDED** (Hause) a **ROLL CALL** was performed to take the public hearing regarding Underground Fuel Storage off the table. Spellios (yes) Titcomb (yes) Spathanas (yes) Hause (yes) Dreeben (yes).

Carolyn Parker provided an overview of the application – they are increase storage to three 12,000-gallon tanks which will take 6-8 weeks. There will be some environmental specialists to test the soil to make sure there is no leaking. The new tanks will be double-walled. Ms. Parker noted that Global Montello Group owns over 1,500 gas stations and this is a routine process.

Town Administrator Sean Fitzgerald provided some information about internal permitting and Deputy Potts answered questions about inspections. The Fire Dept. shared the fee schedule for the application. Chairman Spellios asked if a full schedule of fees could be provided to the board in the future so there can be a review of these and other fees. Mr. Spellios also asked that the routing slips that confirm department sign-offs be provided moving forward.

On **MOTION** (Dreeben) and **SECONDED** (Hause) it was **VOTED** (unanimous) approve license with addition of details at the discretion of the Fire Chief or Police Chief.

MACHON SCHOOL

The Town of Swampscott has entered into a land development agreement for the former Machon School to be turned into a 38-unit senior affordable housing facility. They are entering into a 99-year ground lease – the closing is March 11. All documents were presented to the Select Board. Marzie Galazka spoke briefly about what is included in the packet which has been approved by Town Counsel. \$550,000 will be paid to the Town for the lease and mitigation.

There will be a neighborhood meeting on March 16th in B129 with B'Nai B'rith so neighbors can meet the contractor and development team about the project. Chairman Spellios requested that construction management plans be available in hard copy at meeting and that they also be provided online and provided to the public.

The Select Board also gave Town Administrator Sean Fitzgerald and Peter Spellios the authority to sign any future documents related to the closing to avoid a delay.

Vice-Chair Naomi Dreeben read the recitals for the vote.

On **MOTION** by Dreeben, **SECONDED** by Hause, it was **RESOLVED** that the Board of Selectmen on behalf of the Town execute and deliver the Lease, a Notice of Lease for recording, a Bring Down Certificate updating the Town's representations in the LDA, a Consent, Recognition and Non-Disturbance Agreement with Boston Private Bank & Trust Company (the "Bank") providing the Bank with certain cure and other rights, a Ground Landlord Estoppel and Agreement and a Temporary Construction License Agreement and Reciprocal Easements Agreement with the Tenant providing for

certain access rights to benefit the Town and certain grading and landscaping rights on Town owned land adjacent to the Property for the benefit of the Project. That Sean Fitzgerald, in his capacity as Town Administrator, be and hereby is authorized to execute and acknowledge any additional title certificates and other documents ancillary thereto in forms approved by him.

Four in favor, Ms. Titcomb abstained.

WHOLEFOOD

7:00 PM Public Hearing: Hearing will be held for all parties interested in an application for a Section 12, Restaurant on premises wines and malt beverage, Sip & Shop Program request from Whole Foods Market Group, Inc. DBA Wholefoods Market, 331 Paradise Rd. Swampscott, MA

On **MOTION** (Hause) and **SECONDED** (Dreeben) a **ROLL CALL** was performed to open the public hearing. Hause (yes), Dreeben (yes), Titcomb (yes), Spellios (yes) Spathanas (yes)

Chairman Spellios clarified that this is a new hearing and not a continued public hearing so all members present can vote on this issue.

Attorney David Labordoni spoke on behalf of Wholefoods. He stated that since the last Select Board meeting when Wholefoods was on the agenda, they have worked with the Community and Economic Development Department to address the concerns raised in the meeting. The most substantial concerns are related to the parking and traffic situation at the store and how the Sip & Shop program could further impact the conditions of the area. Attorney Labordoni stated that the firm engaged Randy Hart from VHB who has worked on high-profile projects to provide a traffic assessment to look at issues.

Attorney Labordoni requested a continued hearing. Chairman Spellios stated he did not want to entertain a continuance and would like to convey comments. Attorney Laborodoni provided a refresher of the application for all members since not all were present at the December 4 meeting.

The Select Board expressed concern that the TIPS-qualified employee in such a large space is not going to see all operations. Mr. Spellios expressed disappointment that Rules & Regulations were not submitted in writing and stated that he feels the VHB memorandum does not address what was asked – which was how to mitigate safety issues in a dangerous parking lot. Select Board members discussed concern about the plan as well as the issues in the parking lot.

The Owner of Vinnin Liquors shared photos of traffic and drink sample sizes. Her concern is safety in the parking lot. Ms. Dreeben asked if traffic flow increased in stores when the program was launched. Labordoni stated that the program is to service existing customers, not to add additional traffic.

On **MOTION** (Titcomb) and **SECONDED** (Dreeben), it was **VOTED** (unanimous) to continue the public hearing to Wednesday, June 3.

DANGEROUS DOGS

Public Hearing: The Select Board and/or its designees will hold a public hearing in accordance with Massachusetts General Laws, Chapter 140, Section 157, to investigate, examine, and determine

whether the dogs owned and/or kept by Glenn, Irene, and Rebecca Schwartz of 50 Puritan Lane in the Town of Swampscott are Nuisance Dogs or Dangerous Dogs as those terms are defined in said statute. Votes will be taken by the hearing authority.

On **MOTION** (Dreeben) and **SECONDED** (Spathanas) it was **VOTED** by roll call to open the public hearing. Spathanas (yes) Spellios (yes) Titcomb (yes) Dreeben (yes) Hause (yes)

This agreement would extend the temporary agreement through April 24, 2020 and minor modification allowing both of the dogs Jed and Bubbah to be removed from property for purpose of medical grooming, appointments. It is the board's understanding that the Schwartz's will move out of state on or before April 24, 2020. Once this occurs and the temporary order expires, then no further action is needed. If they do not move, then a permanent and final order will occur.

On **MOTION** (Titcomb) and **SECONDED** (Spathanas) it was **VOTED** (unanimous) to approve the execution of the temporary agreement as provided in the board packet.

TOWN ADMINISTRATOR REPORT

Town Administrator Sean Fitzgerald provided an update on several ongoing items, including the B'nai B'rith Housing project, Four Seasons Car Dealership hearing, Issuance of bonds and notes to fund capital projects, the FY21-25 capital plan, an update of the Earth Removal Advisory Committee, information about COVID-19, and Student Government Day.

CONSENT AGENDA

Approval of minutes of prior board meeting (2/26/2020).

On **MOTION** (Hause) **SECONDED** (Dreeben) it was **VOTED** (unanimous) to approve the consent agenda.

BOND APPROVAL

Ron Mendes, Assistant Town Administrator of Administration and Finance explained that on February 26, the Town performed a bond sale for a number of projects approved at Town Meeting in May 2018 and May of 2019. Projects include Stacy Brook and other capital infrastructure projects. It was estimated that the average interest rate would be 3.25%. However, interest rate dropped to 1.86%. for 30-years \$5.4 million. Received rate of 1.29% on 1-year note for feasibility study for Rail Trail project.

ON **MOTION** (Titcomb) and **SECONDED** (Hause) it was **VOTED** (unanimous) that the Select Board approve the bonds totaling \$5,430,000 and the note of \$1,190,000; the full text of which is provided in each Select Board member's packet and is incorporated herin its entirety by references.

CAPITAL PLAN (1st portion)

Mr. Mendes stepped through a presentation regarding the Debt Management Plan. He stated that the Town must determine what percentage of the operating budget we feel comfortable earmarking for

debt service, and to plan accordingly. The presentation was halted to address the 8:00pm Public Hearing.

CLASS II CAR DEALER LICENSE

8:00pm Public Hearing: The Swampscott Select Board, acting as the Town's Licensing Board ("Board"), will hold a show cause hearing to hear the following charges regarding the Class II Car Dealer's license issued to you for the premises located at 460 Humphrey Street, Swampscott, MA: Exceeding the allotted number of cars on the premises for sale and repair in violation of the conditions of the Class II License. Public hearing has closed, there is no more testimony or evidence.

Counsel for both the Town of Swampscott and Four Seasons Motor Group have submitted proposed findings for the Select Board to consider. The Board has no obligation to use or follow any of the findings. Attorney Tom McEnenay was present on behalf of KP Law, the Town's Counsel. It was noted that Select Board member Laura Spathanas cannot vote on this agenda item because she was not part of the original public hearing on 2/26.

Mr. Spellios referenced an assertion from the opposing counsel finding that the underlying condition is not supported by law and is unenforceable. Town Counsel has the opinion that the Select Board does have such authority. Select Board members stated that there was no question that a violation had occurred. Chairman Spellios read suggested findings.

On **MOTION** (Dreeben) **SECONDED** (Hause) it was **VOTED** (unanimous) to accept findings as read – removing the terms “knowingly and willfully.”

On **MOTION** (Dreeben) and **SECONDED** (Hause) it was **VOTED** (unanimous) the following order:

1. The License shall be suspended for 30 day with 7 days served and 23 suspended. In the event that there is a further violation of the license, the Board may require the remaining 23 days be served in addition to any further penalty for the further violation.
2. The Licensee shall pay to the Town \$3,000 as reimbursement for the cost of the determining compliance with the License.
3. The current license for calendar year 2020 shall be modified to include the following conditions.
 - a. Total number of displayed, unregistered, used and operable vehicles on the Property will be limited to a total of twenty-four (24) with six (6) vehicles to be located in the outside lot in front of the building (consistent with the current license) and the remaining vehicles will be located so as to have no impact on the neighborhood and parking congestion concerns on adjacent streets.
 - b. At no time shall unregistered, used cars be parked on Humphrey Street or Cedar Hill Terrace. Any unregistered vehicle which is not inspected, prepared for sale and/or in need of repair may be stored in the rear, indoor garage or back lot to eliminate congestion in the neighborhood and around the property.

CAPITAL PLAN

Assistant to the Town Administrator Ron Mendes presented the list of FY21-25 Capital Projects that have been submitted from different departments. At the moment, the Capital Improvement Committee (CIC) has not begun reviewing and discussing the items.

He described the new projects, including several projects related to the Middle School – a roof replacement, fire alarm system replacement, and boilers. Other new projects came from Chief Archer, including 89 Burrill St., expanding attic access in current fire station, replace Car 22 and pick-up truck used for Chief.

Town Administrator Gino Cresta provided information about one of the projects on the list, which is a watermain and hydrants on Jesse Street and line gates on Atlantic Ave. where a hydrant was hit. Other funding for the project includes the \$750,000 interest-free loan from the MWRA. Mr. Spellios asked if the water assessment also included in the capital plan would inform this project in any way. Mr. Mendes explained the current study by Kleinfelder, that will take 18 months to address water and sewer capital needs. Spellios suggested that the Town get another estimate from a study and consider diversifying studies.

Marzie Galazka, Director of Community & Economic Development reviewed some of the projects submitted by her department. For instance, a study of Swampscott parks, signage façade program, design for Windsor Ave. playground for safety purposes, accessibility and safety of Clark School playground, design for Gazebo near Fisherman's; bathhouse; roads and sidewalks. There was also some discussion about road/pedestrian safety and different funding sources available for those purposes. Mr. Hause asked if the flashing lights at St. John's crosswalk are dim – others confirmed they are not operating correctly.

There was discussion of the Council on Aging capital project proposal for a kitchen upgrade. The Senior Center may get state funding so may not be necessary as a capital expense.

Mr. Mendes also briefly mentioned a FY26 project – an expansion of Community Life Center or expansion of Senior Center. This is something that will require more conversation.

On **MOTION** (Hause) and **SECONDED** (Titcomb) it was **VOTED** (unanimous) to adjourn the meeting.

Meeting adjourned at 9:40 PM.

Respectfully submitted,



Allie Fiske, Assistant to the Town Administrator

Minutes APPROVED by vote of the Select Board 4/22/20