

Town of Wendell
Selectboard Meeting Minutes
December 6, 2023, 7 p.m.
Hybrid Meeting: Selectboard Offices and by Zoom

Present:

Chair Laurie DiDonato, Vice Chair Gillian Budine, Member Paul Doud

Also Present: Glenn Johnson-Mussad, Town Coordinator; Cynthia Bolling, Selectboard Clerk, Road Commissioner Phil Delorey, Treasurer Carolyn Manley, Dan Keller, Ray DiDonato, Nina Keller, members of the public and press.

I. Roll Call/Call to Order

With all members present, the meeting was called to order at 7 p.m.

II. Announcements

There were no announcements.

III. Public Comments

Dan Keller on the Proposed Battery Storage Facility

Dan said he was appearing in his capacity as the unofficial representative of an unofficial town group called No Assault and Battery in Wendell.

The group is extremely concerned about the real need for a battery storage facility and its environmental impact. (According to past minutes and a November Opinion article by Al Norman in the *Greenfield Recorder*, in December 2020 Borrego Solar Systems asked permission to build a lithium-ion battery storage facility in Wendell. The Town's Conservation Commission denied the request, but the Massachusetts attorney general (AG) ruled against the Commission, so Barrego spin-off New Leaf Energy plans to go ahead with the build.)

- Dan wanted to give the Selectboard a heads-up about a petition the group is preparing, asking the Selectboard to call a Special Town Meeting in early January.
 - a. The group aims to present the petition to the Selectboard at its Dec. 20 meeting.
- Does the Selectboard have an update on the possibility of an intervention when the Massachusetts Department of Public Utilities (DPU) holds a Public Comment hearing on the proposal?
- The group is strongly in favor of an intervention, which it believes would give the Town some ability to fight the proposal, or at least have an impact on its design, siting, and construction.

Ray DiDonato on the Proposed Battery Storage Facility

Speaking on his own behalf as a resident, Ray said he is also very concerned about having the battery storage facility in Wendell.

- The proposed site is very close to forested land that has a high conservation interest.
- Other towns, like Shutesbury, are struggling with similar "green" proposals that are being touted as helping to fight climate change through the development of large-scale solar or energy storage facilities.
 - a. Most of the energy produced by this facility wouldn't actually be green, according to Ray.
- This points to a larger problem: the AG as well as the current governor have backed rulings that are forcing large-scale developers into the rural parts of Massachusetts, essentially requiring that forests in Western Massachusetts be cut down to meet the energy demands of the East.

- Ray hopes that the Selectboard will strongly consider intervening.

IV. Selectboard Updates and Comments

Committee Appointments

Vice Chair Gillian Budine said she and Town Clerk Anna Wetherby, with input from Town Coordinator Glenn Johnson-Mussad, have a new procedure for committee appointments.

- People will fill out a form and bring it to Glenn, who will put it on the Selectboard's meeting agenda. Once it's signed, it will be sent to Anna.

Green Communities Report

Chair Laurie DiDonato said the Green Communities Designation and Grant Program Annual Report has been completed and submitted, with a lot of help from the Franklin Regional Council of Governments (FRCOG).

V. Selectboard Meeting and Warrant Schedule Review

The schedules are aligning. The Selectboard will meet the first and third Wednesdays of the month as usual but will skip the fifth unless there's a need for it.

VI. Consent Agenda

The Selectboard considered the following consent agenda:

- A. Approve minutes of November 15, 2023, Selectboard meeting
- B. Appoint Jesse Eisenheim to the Website Committee
- C. Approve the Laura Doughty disclosure as presented

Gillian moved to approve the consent agenda as written. Selectboard member Paul Doud seconded. No discussion.

The motion to approve the consent agenda passed unanimously.

VII. Project Coordinator Report. Phil Delorey

Library Tree Project

Phil made a final inspection and reports that the work on the project has been completed as agreed to and it should be ready for grass by the spring.

WRATS Landfill Capping

- The test wells in the Wendell Recycling and Transfer Station landfill project have been installed.
 - a. The wells were put in to satisfy the state's environmental impact requirements, and a report on the soils or other issues with the landfill should be coming soon.
 - b. More money will be needed next year to regrade the site — maybe \$60,000 to \$80,000.
 - c. The state is asking for a three-to-one slope, but Phil is in talks with them to reduce the slope to a two-to-one slope, which would cut down on the cost of regrading.

Mormon Hollow Culvert Repair

- Phil inspected it during rainstorms and there has been no erosion, so the latest repair is working well.
- Phil asked the Town Counsel to weigh in on the issue of who should pay for the extra repairs to the culvert, but he hasn't heard back yet.

Discussion

- The Town Counsel said previously that he thought recouping funds from the contractors would be problematic because it's a small issue compared to the expense of a legal proceeding.
- At an earlier meeting, it was suggested that the Town might consider trying some sort of negotiated settlement.
- Phil also asked the Town Counsel if the bond the Town held on the project would cover some of the cost of the two repairs. He hasn't responded to that question either.
- However, Phil noted that there is bond on the contract, but it's not a performance bond as far as he can see, which is the only kind that might cover this situation.

Phil will ask the FRCOG what kind of help they might be able to offer regarding a mediated settlement.

Laurie suggested that a separate brainstorming meeting be held to talk about paths forward. Possible attendees: Phil, a Selectboard member, a Finance Committee member, and Glenn.

VIII. Proposed Changes to Parking Ban. Phil Delorey, Road Commissioner

Phil asked the Selectboard to consider changing the wording in a sentence of Wendell's parking ban to ensure that drivers park their cars parallel to the edge of the road rather than perpendicular to it (allowing plows more room for snow removal).

Discussion

After some discussion, everyone agreed with the change as written, which replaces "All vehicle wheels must be at least 4 feet from the edge of the road" with "All vehicles must be at least 4 feet from the edge of the road."

Laurie made a motion to approve the change to the Parking Ban as presented. Gillian seconded. No discussion.

The motion passed unanimously.

Phil will notify the Leverett police about the new wording in the parking ban.

IX. Interlocal Agreement with the Town of Erving. Phil

Phil presented a draft agreement saying that Wendell will be the lead town on the Wendell-Erving bridge repair project.

- The Erving Selectboard is fine with the draft of the interlocal agreement that Phil presented to them previously. The current draft is essentially the same, but it's in a more formal format.
- The Erving Selectboard also agreed that Bryan Smith, the Erving Town Administrator, will be the signatory for Erving.
- Details of the Agreement:
 - a. Wendell agrees to administer the contract with Gill Engineering, which will design the bridge repair (for \$31,183), with Phil as the lead contact.
 - b. Wendell will sign all invoices, pay half, and send a copy to Erving.
 - c. Erving will pay its half and send its payment directly to Gill Engineering.

Discussion

- Glenn asked the Selectboard to consider whether to present the agreement to Town Counsel for review, especially regarding the language in the Terms and Conditions that Gill Engineering attached to the agreement.
- The Selectboard decided to approve this particular agreement without an attorney's review.

- It was suggested that, in the future, it might be good to discuss with Phil what types of contracts would need an attorney's involvement.

Gillian moved to approve the interlocal agreement between Erving and Wendell as presented. Paul seconded. No further discussion.

The motion was approved unanimously.

Next Steps

- Phil will send the signed agreement back to Erving, for its Selectboard's signature.
- He'll send a Notice to Proceed to Gill, then ask for an initial planning meeting.

Parking Lot Light

- The Highway Department put in a new bulb, but it didn't work.
- Steve Canning, who is the electrical inspector for the town of Orange, is scheduled to come and take a better look at it.

X. Dog Ordinance. Carolyn Manley

Before the dog ordinance is renewed, Carolyn asked the Selectboard to consider rewording the part that says "the immediate destruction of any dog found to be in violation" so it's less extreme.

- Carolyn noted that dog owners might not intentionally let their dogs run free, but if a pet got out without a collar, perhaps due to old age, it might take a while for the owner to be identified.

Discussion

- Gillian researched what the law actually did say in section 167, chapter 140: "the mayor, aldermen or board of selectmen may issue a warrant to a police officer or constable in a city or town, who shall, not sooner than 24 hours after the publication of the notice, euthanize all dogs in a humane manner that are found running at large contrary to the order." Later in the paragraph it says they may hold the dog for "no more than 7 days."
- The members of the Selectboard were willing to adopt language that was less harsh.
- Glenn offered to poll small town administrators about what they've done.
- The ordinance will need to be renewed by Jan. 1, 2024, so any changes need to be made by the Dec. 20 meeting.

Glenn will draft new language for the dog ordinance that's less harsh and present it at the Dec. 20 meeting.

XII. Battery Storage Follow-up. Glenn

Glenn was tasked with talking to Town Counsel about the petition process to protest the siting of the battery storage facility in Wendell.

- He learned that the project is difficult to combat because the Public Comment hearing hasn't been scheduled yet.
- Wendell will be notified when the DPU opens the Public Comment period about the project. Then the Town will have 14 days to file its petition.
- It won't cost a lot of money to draft and file the intervention petition, but it might cost a lot of money and time to fight the case in court.

Discussion

- Dan agreed with Glenn and Town Counsel that the petition process itself wouldn't cost a lot in the beginning, but later on the costs might rise steeply.

- Al Norman, who is on the community group with Dan, suggested that the group could fundraise to help out with expenses.
- Dan agreed to ask the town of Carver how much money they spent fighting the siting of a battery storage facility in their town, even though they didn't succeed.
- He suggested that Wendell write up a general protest letter, as a first step, saying the Town doesn't like the idea of this project and would like to talk about it.
- Nina Keller said that a letter from the board would be good; it would let residents know that they are supported.
- There is a legal support committee within the No Assault group. They're in touch with Attorney Meg Sheehan, the lawyer who defended Carver.
- Nina suggested that the Selectboard write directly to Carver's Selectboard and ask how much their defense cost; the No Assault group did ask but didn't get an answer.

Next Steps

- Glenn will notify Attorney Doneski that Wendell wants to file an intervention. He'll also find out if Attorney Doneski would be willing to contact Attorney Sheehan about any tips she might have on fighting the issue.
- The board will include the Finance Committee in monetary discussions about the intervention.
- The No Assault committee is working on drafting an ordinance that might help in the fight against the project, which could be presented at a Special Town Meeting.

Laurie made a motion for the Selectboard to work with Attorney Doneski to prepare a petition to intervene when the New Leaf Battery Storage project becomes active with the DPU. Paul seconded. No discussion.

The motion passed unanimously.

XI. Fire Chief Insurance. Laurie

Fire Chief Joe Cuneo wanted the Selectboard to be aware that now that he's 65, the Selectboard would be obligated to pay his lost wages instead of the health insurance company if he experienced a cardiac event.

Discussion

- Carolyn confirmed that Joe's medical coverage wouldn't end; it's just the lost wages coverage that would no longer kick in.
- She also suggested that a sentence might be included in the Personnel Policy saying an annual physical is required for any police or fire chief who is over 65.
- Gillian suggested that proof of the physical could be a general statement from the doctor saying something like, "the person is fit to carry out the demands of the position."
 - a. If Joe is required to get a Department of Transportation physical, he would be issued a medical card, which would serve the same purpose as the general statement Gillian referred to.

When Laurie meets with the Public Safety Planning Committee next week, she'll check in with Joe about all of this.

XII. Lights on the Common. Glenn

A Wendell resident wants to put up lights on the bandstand in the Common again this year.

The Selectboard had no objections.

XIII. RFQ for Legal Services. Glenn

Glenn found that Wendell doesn't have a contract with KP Law as Town Counsel.

- Does the Selectboard want to draw up a Request for Quote to search for alternative law firms, or negotiate a contract with KP Law for the next fiscal year?
- According to the small town administrators' listserv, in general, administrators are not getting timely responses from their counsels either.

Discussion

- While the Town can spell out what Wendell needs in the RFQ, it would have to accept the lowest bid for services between \$10,000 and \$50,000, unless the Town had reason to believe the firm put itself forward inappropriately.
- If a three-year contract were offered, the Town might have more leverage to negotiate.
- Suggestion: Try to get a sample of an RFQ issued by a small town in the region.

Glenn will follow up with Andrea Woods at the FRCOG about whether they've supported other towns in this process.

XIV Creditable Service Time for Kevin Bickford. Glenn

Kevin Bickford was among the Wendell Highway Department employees who previously asked the Selectboard to approve adding hours of prior employment service to their records, for vacation and retirement eligibility purposes, but the documentation submitted for his prior service was incomplete.

- Carolyn now has the documentation she needed for Kevin.

Discussion

- Kevin worked for Warwick for three years, four months and two weeks. His work in Orange was very random, so it can't really be quantified.
- Carolyn recommends that Wendell allow Kevin Bickford three years of creditable service from his previous employment in Warwick.

Laurie moved that the Selectboard award Kevin Bickford three years for time served in the town of Warwick, which will be added to his vacation eligibility. Paul seconded.

Discussion of motion

Suggestion: Amend the motion to add retirement eligibility so it reads, "Laurie moved that the Selectboard award Kevin Bickford three years for time served in the town of Warwick, which will be added to his vacation eligibility as well as his retirement eligibility when the time comes, as long as he meets all other retirement criteria."

The motion as amended to include the new wording written above passed unanimously.

XV. DCR Notice of Proposed Acquisition of Land. Glenn

The Massachusetts Department of Conservation and Recreation has notified the Town that it may acquire 75 acres of forestland in Wendell.

- The notice requires that the following statement be read at this Selectboard meeting:
The Department of Conservation and Recreation may acquire a parcel of land located in the Town of Wendell as shown on the attached locus map marked as "Exhibit A" or other interests therein for conservation and/or recreation purposes.
- The DCR asks that the Certificate of Announcement box containing this statement be copied and pasted into a return email, signed, and dated, and returned. No other action is needed.

With Laurie's consent, Glenn will send the requested email and copy Laurie.

XVI. Items Not Anticipated

Solar Panels. Laurie

The solar panels have been installed on the Highway Garage, at no cost to Wendell, and it's now generating electricity.

- For every megawatt the building generates, we can get a bit of money through the renewal energy credit (REC) aggregator, Knollwood Energy of Massachusetts.
 - a. The electrical contractor PV Squared recommended Knollwood.
- Knollwood has presented a contract for Laurie's signature saying it will pay the Town a fixed rate of \$27 per credit through 12/31/2027.

Discussion

The Energy Committee will meet tomorrow and will consider how to thank Bill Ashley, who donated the solar panels.

Gillian made a motion to give Selectboard Chair Laurie DiDonato the authority to sign the contract with Knollwood Energy for REC credits. Paul seconded. No discussion.

The motion passed unanimously.

Community Compact Grant. Glenn

The money for one of the two Community Compact grants the town received was put into the Community Policing Services account in error. The other grant was for Hybrid Meetings.

- The error has been fixed, and some allocations and expenses were reviewed:
 - a. Now the Community Compact Grant, account number 405, recognizes both IT grants, one for \$25,000 and the other for \$17,500.
 - b. \$16,631 is left in Community Policing, with a \$10,000 invoice for the radar trailer already deducted. (\$11,500 was allocated at the last Money Managers meeting).
 - c. More will be sorted out by the January Money Managers meeting.
 - d. \$40,000 in American Rescue Plan Act (ARPA) money has been set aside for the police vehicle, plus money from the Community Policing account.

Police Advisory Committee Meeting Update. Gillian

- Police Chief Scott Minckler is planning to propose a fourth full-time police officer.
- The overall police budget will probably come in with a 2.5% increase.

XVII. Adjournment

Gillian moved to adjourn the meeting at 8:56 p.m. Paul seconded. No discussion.

The motion passed unanimously.

Documents

Legal Dog Notice, Dec. 6, 2023

Parking Ban, Dec. 6, 2023

Letter from Warwick, Nov. 13, 2023

Open Space Letter of Support, Nov. 14, 2023

Selectboard Meeting Minutes, Nov. 15, 2023

Doughty Disclosure, Nov. 18, 2023

Selectboard Post and Agenda, Dec. 6, 2023
Amended Parking Ban, Dec. 4
Certificate of Completion (COC) Signed, Dec. 5, 2023
Department of Conservation and Recreation (DCR) Email, Nov. 14, 2023
Department of Conservation and Recreation (DCR) Exhibit A, Nov. 14, 2023
Inter-Local Agreement Proposal, Nov. 16, 2023
Knollwood Energy PV Detail Form 2023 for Automatic Portal Upload. Dec. 5, 2023
Knollwood Letter, Dec. 5, 2023
Renewable Energy Credit (REC) Contract for Knollwood, Dec. 5, 2023
Town of Wendell Signed Proposal