

BOARD OF SELECTMEN
DECEMBER 3, 2014
REGULAR SESSION

Members Present: David Parker, Nelson Almeida, David Andrade,
Michael Brady, Gary Sagar

Finance Director/Asst. Town Administrator Bruce Alexander was in attendance.

Chairman Parker opened the meeting at 6 p.m. followed by the Pledge of Allegiance and moment of silence.

He announced that in accordance with M.G.L. Chapter 30A, Section 20, anyone recording the meeting must notify the Chair. The Board of Selectmen is recording both audio and video.

PUBLIC HEARING FOR THE FY 2015 TAX CLASSIFICATION

Chairman Parker opened the hearing at 6:03 p.m.

He commended Assessors on the documentation provided.

Chairman of the Board of Assessors Paul Buckley advised the residential values last year increased by 4% and commercial by 1%. New growth increased by 3% at \$508,931. The average single family assessment increased from \$285,900 to \$296,300. To duplicate last year's split, the shift would be 1.62.

Mr. Brady said it was an incredible presentation and easy to understand.

Chairman Parker closed the public hearing at 6:11 p.m.

Mr. Sagar said currently the businesses pay \$2 for every \$1 that residents pay. Seventy-five percent of all values in town are residential and they pay 60% of taxes and 25% of the value is commercial and businesses pay 40% of taxes. Town Meeting allocated \$10,000 to promote Seekonk to businesses. He felt it would send a negative message if the burden is increased on businesses any more. The Town has the opportunity for a very large scale operation to come in. They have been able to do it without any tax breaks to these businesses. A single tax rate would put \$1,140 additional tax burden on an average home.

Mr. Andrade agreed but added that it is important to note that businesses make money here although they pay more in taxes.

Mr. Sagar said every residential structure is a net loss from a financial perspective. The business community pays for everything they get. Seekonk is in competition with Swansea and Rehoboth.

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Mr. Brady responded that a lot of services are provided by police and fire especially to the box stores and at this time of the year. It brings additional stress. He felt businesses should pay more than the average person who, in ten years, might not ever use those services. These businesses could use them ten times in one day.

Chairman Parker agreed. He said it comes to a point where the tax rate to businesses may be detrimental to the Town. Companies that have come in have done tax studies and still move into town with the current rate. He didn't think the business rate is oppressive and yet it is split as far as it can to take care of the homeowner. He agreed with Mr. Sagar to make it any more might be negative.

Mr. Andrade said they are splitting as far as they can.

A motion was made by Mr. Brady, seconded by Mr. Sagar, and it was unanimously

VOTED: To set the residential factor at .796959 with a 10% commercial exemption.

BOARD AND COMMITTEE OPENINGS UPDATE

Mr. Sagar announced that volunteers are needed on the Capital Improvement Committee, Conservation Commission, Cultural Council, Economic Development Committee, Energy Committee, Historical Commission, Property Tax Work-Off Committee, and Zoning Board of Appeals. Also, the Finance Committee has two openings (moderator appointment).

The Department of Public Works is looking for snowplow drivers. CDL license required.

Mr. Andrade said he was contacted by a resident who submitted a talent bank form for the Energy Committee and has not heard back.

Chairman Parker said he would check.

NEW BUSINESS

Discussion on EPA Grant for Maple Avenue

Tracey A. Costa of Nobis Engineering discussed the environmental assessment conducted in 2013 on behalf of the EPA. It was referred to as a targeted Brownfields assessment. The investigation included looking at the building materials to see if it contacted hazardous materials, such as asbestos. The Attleboro Dye Works mixed and discharged metals and petroleum waste into the river and the settling ponds. It was discovered there was a very high level of heavy metals. The fence installed there was to keep trespassers away from that.

They collected samplings from the burned debris and the intact building materials. They also verified that there are heavy metals in those settling ponds and some levels of petroleum. Within the building footprint, there is a likelihood that there is contamination within portions of the building and also in the Ten Mile River. The site is out of compliance with DEP regulations. There are certain reports that need to be completed.

There are options. The settling ponds can be recapped. It would cost over \$1M dollars to dig out the soil or the soil can be stabilized and a clean cap put in place. To abate would cost about 3/4M dollars because of the size of the building (over 100,000 sq. ft.). The materials would have to be disposed as bulk waste. It would cost between \$1M and \$2.4M dollars to clean up the site.

Mr. Andrade asked how much of the building is falling down.

Ms. Costa said about 50%.

Mr. Andrade asked if her figures take into account that 50% of building materials would be treated as hazardous.

Ms. Costa said it assumes all building materials would be demolished and treated as hazardous waste. These are conservative estimates.

Mr. Andrade asked if the soil contamination would go beyond the property lines.

Ms. Costa responded that she was not sure about the ground water, probably not in terms of the soil.

Mr. Sagar, who lives near the property, provided background information. He noted that the Conservation Agent has been the resource and has pursued a \$100,000 grant from the EPA to do the assessment. He has been lobbying the Town Administrator to move this project forward. About a month ago, Town Counsel, Conservation Agent, Town Administrator and he met with a representative from the EPA and a representative from the Atty. General's office. The property is in tax title. Once the Town takes title, it owns the property. They need to rely on Atty. Reich as to how to apply for the grant.

Ms. Costa offered to write the grant at no charge to the Town. The Town is eligible for up to \$600,000 in clean-up funding from the EPA because the property is three parcels. In addition, MassDevelopment offers clean-up funding. This property may be potential for solar development because it could offer Brownfields and tax credits. Those credits might not be forever.

Mr. Andrade was hesitant to take on a property with tax credits that may not be available.

Mr. Brady said taxpayers would be responsible for the property.

Atty. Reich said it is a difficult position with this property. Under Chapter 21E, owners of sites that have had release of hazard waste have strict liability for property damage and are liable for cleanup.

The Town would acquire the property under involuntary acquisition. The Town would be the custodian of the property. If the Town takes the property for tax liability, it would not have responsibility to clean it up or liability and subject to suit by a third party.

There is a year for the right of redemption for anyone who acquires the property. The property owner will not come back and buy this property from the Town. The Town is looking for federal funds or grants and ultimately dispose of the property. The liability issues change if the Town decided to keep the property.

Mr. Andrade asked if the Town would be liable if neighbors said their ground water was contaminated from the metals on the site.

Atty. Reich said there are causes of damage under Chapter 21E or response action costs. That liability attaches to owner or operator. There are common law claims, such as trespassing. He would like to meet with MassDevelopment to get funding for more testing. An EPA grant is intended for redevelopment of the property. He spoke to EPA counsel. The Town needs to have title to the property in order to apply and obtain grant funds. He recommended the Town acquire the property and hold as a tax title facility. It is held by the tax title custodian and disposed of that property through a foreclosure process. It would have to go to Town Meeting and would not actually become property of the Town. That is the usual way it is done with this type of property. However, that is not ownership and would not satisfy EPA.

The property would have to be transferred to the Board of Selectmen for general municipal purposes and disposition. It would require a two-third vote at Town Meeting to transfer the property to the Board of Selectmen. The fact that the property was acquired through the tax title process would mean the Town still has the exemption. As soon as they get the judgment, it can be transferred.

Mr. Sagar noted the former owner was in bankruptcy. He died earlier this year.

Atty. Reich said there are other ways to acquire the property. It would depend on whether the Town would accept the property in lieu of outstanding taxes. The problem is that it is not an involuntary acquisition and the Town does not have the exemption.

There is a Mass. Brownfields Act which provides for covenant not to suit. It is an agreement between the party that owns the property and the Mass. Atty. General's office. All abutting property owners would be put on notice. After a certain amount of time and some public hearings and once the covenant is signed by the Atty. General's office, it is a recorded covenant and prevents from third-party claims.

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Atty. Reich said he would try to set up a meeting with MassDevelopment for next week to go over the issues and see what funding is available for additional sampling.

Mr. Brady asked what if no action is taken.

Atty. Reich responded the property will sit there. In reality, he felt the property is worth less than a dollar right now.

Mr. Andrade asked if the Town would be liable if it acquired the property, not remove all the heavily contaminated soil, cap it, and the property is sold for residential subdivision.

Atty. Reich replied that residential is out with this kind of property.

He will return to the Board with an update.

Mr. Sagar thanked Conservation Agent Bernadette DeBlander for doing the background work. He also thanked Atty. Reich.

Discussion and Vote to Dispose of Old Town Hall

Mr. Sagar suggested they refer to the Historical Commission and Community Preservation Committee as to what should be included in the RFP.

Mr. John Alves, Chairman of the CPC, felt it would be an inappropriate role for the CPC.

Discussion and Vote to Secure Easements or Licenses from Abutting Properties to the New Senior Center

Mr. Sagar talked about the possibility of an easement or license with the Knights of Columbus and YMCA for additional parking for the senior center. It would help the architect in planning.

A motion was made by Mr. Brady, seconded by Mr. Almeida, and it was

VOTED: 4 Ayes; To authorize Mr. Cadime, Mr. Sagar, and Mr. Bowden to discuss with the Knights of Columbus and YMCA the possibility of an easement or license for additional parking for the senior center.

The vote: Mr. Brady – Aye; Mr. Almeida – Aye; Mr. Sagar – Aye; Chairman Parker – Aye; Mr. Andrade recused himself.

Discussion and Vote on Town Plowing Policy

Mr. Almeida recused himself.

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Town Engineer David Cabral advised that meetings had been held with Atty. Brainsky, Mr. Tapalian, Mr. Cadime, Mr. Sagar, and Mr. Lamoureux with regard to plowing in subdivisions. He had a copy of the plans.

Atty. Michael Levinson was in attendance.

Mr. Sagar noted that the list of streets from the Town Planner has a couple of subdivisions that have been unfinished – one for 25 years. With the three-year exclusion, they would have to stop plowing those streets now and people live there. The Planning Board also has a stipulation that the final coat of asphalt cannot go down until 75% of the lots are developed.

Atty. Levinson said this policy goes back to 2001. It was a Town Meeting and ballot vote in 2004.

DPW Superintendent Robert Lamoureux advised that DPW does not advocate for this. It has never been done in the past. It puts a burden on the department.

Mr. Cabral felt they should provide some language if the Town is considering doing this. He included language used in other communities.

Mr. Andrade said it is not the Town's fault if people are living in a development that is not completed.

Chairman Parker said residents expect their roads to be plowed for the taxes they pay. The contractor also expects to plow the road until the finished coat is on. So, what's the issue, he asked.

Mr. Sagar disagreed based on Town Meeting votes. He felt it is the Town's responsibility.

Mr. Lamoureux said they have plowed unaccepted streets that have the finished coat down. They have never plowed subdivisions.

Mr. Brady felt the Board needs to decide whether to plow private ways or not. If so, it has to be all private ways.

Mr. Lamoureux said there are only two private roads in town. Two subdivisions are finished and are plowed.

Mr. Andrade felt a subdivision should be plowed as long as the finished coat is down.

Mr. Sagar noted that goes against the Planning Board which stipulates 75% of the lots have to be developed.

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He felt it is not fair to the residents who pay their taxes but do not have the same services as others.

Mr. Lamoureux said one of his recommendations was to charge the developer to plow those areas.

Mr. Cabral read through the policy.

On #6, Mr. Andrade recommended removal of the wording, “except if the plow causes damage to the finished course of asphalt or associated structures, then the Town shall be responsible to repair such items.”

A motion was made by Mr. Sagar, seconded by Mr. Brady, and it was

VOTED: 2 Ayes; 2 Nays; To accept the Policy of Plowing Subdivisions under Construction, as amended.

The vote: Mr. Sagar – Aye; Mr. Brady – Aye; Mr. Andrade – Nay, Chairman Parker – Nay.

Mr. Lamoureux said he has 10 plow operators this year. He will have to plow 10-12 more roadways now.

Mr. Cabral said they do not plow residential streets unless there is two or more inches of snow.

A motion by Mr. Brady, seconded by Mr. Sagar, not to plow any unaccepted roads was withdrawn after discussion.

Mr. Sagar read a list of streets and told residents that their streets would not be plowed. This is a public safety issue.

Mr. Brady said it is a public safety issue and also a fairness issue. Everyone should be treated the same.

Mr. Sagar felt the Town has a legal and moral obligation to plow subdivisions that have been approved by the Planning Board.

Mr. Lamoureux said when he first came to Seekonk there were over 70 fully developed but unaccepted streets in town that were plowed.

Atty. Levinson quoted from a town meeting and ballot question of April 2004 which voted the plowing.

Mr. Lamoureux responded to Mr. Parker’s question that he is plowing subdivisions that have both coats on but not accepted by town meeting.

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A motion was made by Mr. Sagar, seconded by Mr. Brady, and it was

VOTED: 4 Ayes; To accept the Policy of Plowing Subdivisions under construction, as amended.

The vote: Mr. Sagar – Aye; Mr. Brady – Aye; Mr. Andrade – Aye; Chairman Parker – Aye. Mr. Almeida recused himself.

Vote to Approve November 5, 2014 Minutes

A motion was made by Mr. Sagar, seconded by Mr. Brady, and it was unanimously

VOTED: To accept the minutes of November 5, 2014.

COMMUNITY SPEAKS

Mr. Andrade recused himself and left the room.

Mr. Dave Bowden said he was disappointed that there isn't an agenda item for the Board to approve the architect for the senior center. The contract was forwarded to Kopelman & Paige. Apparently, they have an issue. The next Board meeting will be on December 17. He asked if the Board would vote to authorize the Chairman to sign once it is returned by Kopelman & Paige.

Mr. Brady suggested the Town Administrator notify Kopelman and Paige that the contract should be back no later than the close of business tomorrow. The Board could then hold a short meeting next week to vote on it.

Mr. Sagar noted that the Board had voted on November 5th to authorize the Town Administrator to negotiate with the firm.

Board members, except for Mr. Andrade who was not in the room, had no problem with the Chairman signing the contract if the language is in order.

Mr. Sagar asked Mr. Alexander to get copies of the architectural contracts for Banna and the roof project at the library.

BOARD OF SELECTMEN LIAISON REPORTS AND COMMENTS

Mr. Almeida announced the tree lighting ceremony sponsored by the Kiwanis Club would be held on Thursday, December 4, 2014, at 6 p.m. at Town Hall. Donations will be accepted for Doorways.

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Mr. Sagar advised the Banna Fire Station dedication will be held on Sunday, December 14, 2014, at 1 p.m. Parking at Webster Bank, Stop & Shop or at the plaza next to Webster Bank.

He extended kudos to Seekonk Police who apprehended the robber at the Webster bank within a few days.

He asked to have an agenda item on budget preparation for the December 17th meeting.

Human Services wants to meet with the Board re: GATRA bus services.

Mr. Almeida asked about the free cash amount.

Mr. Alexander said certified cash is just shy of \$90,000.

As a representative of the Veterans Memorial Committee, Mr. Brady would like to contact a member of the Library Board of Trustees regarding an issue that came up. He noted it has been a while since they all met.

Mr. Sagar noted the Veterans organization is trying to become a 501 designation.

Mr. Sagar said the State cut \$50,000 from the amount for the opticom system.

A motion was made by Mr. Sagar, seconded by Mr. Brady, and it was unanimously

VOTED: To dissolve at 8:49 P.M.

The vote: Mr. Sagar – Aye; Mr. Brady – Aye; Mr. Almeida – Aye; Mr. Andrade – Aye; Chairman Parker – Aye.

Respectfully submitted,

David Andrade, Clerk

Patricia Gamer, Secretary

