

MINUTES
SHARON SELECT BOARD
March 10, 2020

The meeting of the Sharon Select Board was called to order at 7:00pm in the second-floor meeting room at Sharon Town Hall with Chair William A. Heitin, Select Board Member; Emily E. Smith-Lee; Select Board Member Hanna R. Switekowski; Town Administrator, Frederic E. Turkington, Jr.; and Assistant to the Town Administrator, Lauren Barnes. The meeting commenced with the recitation of the Pledge of Allegiance.

Discuss concerns with abutters of the new Sharon Public Library

Mr. Heitin explained that the Board wished to discuss the status of library project as there have been some issues with information flow about where the project stands today as well as concerns which have been raised from neighbors.

The following information was presented:

- **Building Dimensions:**
 - 35 feet high
 - 162 feet wide along School Street
 - 83 feet wide along North Main Street
 - Currently the contour elevation for the building will be at 296 feet, add the building height, and the roof would be 331 feet.
 - The existing building currently sits on contour elevation 300 feet. The existing building floor sits 3 feet above that, and is estimated to be 15-20 feet high, which would bring the total existing height to 318 feet to 323 feet.
- **Construction Schedule:**
 - Expected to take a year a half
 - Anticipated start date: August 2020
 - Anticipated project completion: December 2021/January 2022
- **Septic System:**
 - This is currently being worked on with the project's Civil Engineer with the town's Board of Health. Currently, it is approximately 30% smaller than what was shown back in January.
 - During the design process, new soil testing was performed in January 2020 under the septic leaching system and next to the initial soil testing that was performed in 2016. Both tests were performed by registered soil evaluators and witnessed by the Sharon Board of Health. Both tests show excellent percolation rates and depths above groundwater.
 - As a safety factor during the concept development process, one assumes slow percolation rates until we do the final testing and the new soil testing resulted in faster rates, allowing for a reduced size. The system being designed will meet current Mass Title V regulations.
- **Building Site Location/Parking:**
 - The building cannot be pushed further back on the site so that parking can be in the front.
- **How can the public be kept fully informed of the project activities?**
 - Information posted weekly to Town's website (with a link on the library's website, similar to what was done for the Town Hall project
 - Standing Building Committee meeting agendas are posted and televised on Sharon Community Television
- **Lighting:**

- Down lighting will be used to minimize the light throw
- 6' wood fencing will be installed along the north and west property lines
- Interior light timing has been discussed at the Standing Building Committee, but no decision has yet been made
- **Noise:**
 - Transformer relocated next to the dumpster
 - Generator will be exercised during the daytime hours
 - During design phase, every effort was made to relocate equipment (i.e. HVAC) as far away as possible from nearby homes
- **Snow Removal:**
 - DPW is responsible for snow removal at all public buildings
 - Depending on the situation, the snow will either remain on-site or hauled away, if necessary
- **Landscaping:**
 - A pergola was added to soften the look of the site
 - Conversations continue at the Standing Building Committee level; specific landscaping details will be determined when that portion of the project occurs
 - The SSBC is aware of the requests for various landscaping measures on the School Street side
- **Building Hours**
 - At this point, the building's hours will be the same as they currently are:
 - Monday & Friday: 10:00am - 6:00pm
 - Tuesday, Wednesday, & Thursday: 10:00am - 8:00pm
 - Saturday: 10:00am - 5:00pm
 - There is an option for evening programs to end no later than 9:00pm
 - **After Hours Drop Box**
 - The box will be located next to the entrance door
- **Traffic Mitigation:**
 - Should additional traffic mitigation efforts be needed in the future, funds will be available in the Town's budget for maintenance and improvements
 - **Sidewalks/Crosswalk:**
 - Sidewalks will be placed on School Street and North Main Street bordering the property
 - The plan is to have a signed crosswalk across North Main Street
 - **Parking:**
 - On-site parking meets requirements
 - Police will monitor, and ticket if necessary, "no parking" zones
 - Pleasant and School Streets are public ways; time restrictions can be set (i.e. 3-hour parking), similar to what is done in the neighborhood abutting the train station, with appropriate signage
 - On-site parking guidelines will be posted on the library's website and in the building

Peter O'Cain, Town Engineer presented information regarding traffic and responded to neighbors' concerns about sidewalks and traffic speed mitigation. He explained that there will be new high visual signage and striping as well as a rapid flashing beacon at the crosswalks. When questioned about sidewalks on Schools Street, he explained that the plans show the sidewalks ending at the project site and will be only on the right side of the street.

Concerns were raised about traffic speed on North Main Street and whether there is any way to slow traffic coming from the center of Town? Mr. O'Cain explained that North Main Street is an arterial roadway and the rapid flashing beacon will help.

It was explained that this project is still a work in progress. All parties involved are interested in feedback. If neighborhood would like parking restrictions it was suggested that they petition for signage and changes via Mr. O'Cain at DPW. His contact information can be found on the Department of Public Works webpage.

Mr. Mike Freeman of 66 North Main Street commented that there are a lot of problems with this proposal. At a prior Finance Committee meeting when library trustees submitted proposal, it was noted that the grant application stated that no variances were required. He feels that the grant application was disingenuous. The biggest variance would be for building as it will take up 76 percent of lot. MLBC was not told about this major variance. The neighbors are very upset, and Mr. Freeman feels that entire town was misled.

Judy Crosby stated that she has attended many meetings and takes serious issue that Town was misled. Melissa Frazier of 36 Pleasant Street commended that while setbacks were discussed, lot coverage was not. She would like to know how these variances stack up to ones from the past. A variance of 76 percent would be one of the largest to take up.

It was explained that after the ZBA makes its decision, there is an appeal process. It is felt that there needs to be a discussion about Plan B; right now, there is none. The building project is now in the hands of the Sharon Standing Building Committee. The project funding is available as it was passed at Town Meeting. The demolition permit has been applied for. The Historical Commission will hold off on a ruling on the demo permit for now. They could put a year long delay on the demolition but there is no certainty they will do so.

Pat Oldham of 27 Cottage Street commented that when MBLC considers new libraries for their grant, they look at need and they felt that the Sharon Library was in DIRE need which put Sharon in position to receive grant. Mr. Heitin commended that given the state of the current building, the present library is safe. There has been a committee engaged in researching potential reuse of the present library building but the Committee is stalled at the moment.

Amy Baldwin of 32 Pleasant Street commended that since the new space is 76 percent covered with non-permeable surface, what is drainage plan? She is concerned about soil erosion and basement flooding. Gordon Gladstone of 2 Bruce Ave and Chair of the Sharon Standing Building Committee explained that an elaborate retention plan has been designed as required by State law. In some cases, drainage is going to be far superior to what is there now.

Mr. Mike Berkley of 39 Pleasant Street thanked the Board for being recognized and would like to make a statement. In the 13 years he and his family have lived in Sharon, they have been strong supporters of the Public Library and will continue to be. He feels that the Trustees have largely ignored the concerns of the neighborhood. In reviewing the zoning table, the precedent that this project would set would be downright dangerous. It is the intent of the Library Trustees to invoke the Dover amendment which is intended for schools and religious buildings. The Library lied on their grant application and neglected to disclose all variances required. There is an opportunity here to right a wrong. The proposed site has .88 acres and the proposed building size is 29538 square feet which is an egregious over-building of the site. He explained that the proposed building is on a lot half the size of the one the audience currently sits at Town Hall in with 76 percent more square footage. At Town Hall, there is a beautiful courtyard. Looking out of the proposed new Library building, you'll be looking into resident's homes. Again, he stated the Library omitted substantial facts. He feels that the brakes should be put on this project and a more suitable location sought.

Michael Freeman of 66 North Main Street stated that he fully agrees with Mr. Berkley. The lot coverage was not disclosed to anyone. Had the lot coverage been disclosed from the outset, would residents still have supported the project?

Ms. Switekowski commented that communications should have been at forefront of Library Trustees throughout this process. Having heard from neighbors, they clearly want and care about the library. There is no question there has been a lack of communication, but she hopes that issues can be worked through.

Olivia Van Dyke of 23 Pleasant Street stated that on the process side, she cannot say that everyone is comfortable with the library on this spot. However, there is support for a new library even at this location, but the building is a problem. No one wants to support the library more than she does and she feels that it's a crummy position to be in as a neighbor.

Judy Crosby of 6 Condor Road commented that the facts were clear as voter that supported this project and feels it was clear to everyone at town meeting. Size of the building on the lot was very clear.

Ruth Freeman of 66 North Main Street stated that she would like to make it known that living next to the library is not an issue for neighbors, rather the size of the project is the only problem. The neighbors want it to work out and want to work collectively.

Chair Heitin thanked everyone for attending. He explained that the Select Board has no say but ZBA has its process regarding variances. He would like to keep the lines of communication open.

Mr. Heitin announced a short recess before beginning the next topic.

Discuss next steps for solar leases at East Elementary, Gavins Pond, and Landfill sites

Chair Heitin resumed the meeting at 7:40 pm and stated that he was remiss at beginning the meeting without acknowledging a public service announcement by Town Administrator, Fred Turkington about the COVID-19 virus. The Sharon Health Department continues to work closely with municipal and school staff and key community Committees. There has been one presumptive positive case of COVID-19 in Sharon. Deep cleaning of all Town buildings has been arranged and will be ongoing for as long as necessary to avoid the spread of this novel virus. Public Safety personnel is also vigilantly cleaning all apparatus regularly and after treating or transporting patients exhibiting flu like symptoms. The Commonwealth of MA has declared a state of emergency to allow the state access to federal funding once it becomes available. Sharon residents should monitor the CDC website and Town's webpage for information.

Mr. Heitin explained that this is a continuation of a discussion from last meeting of March 3 regarding solar leases. It had come to the Boards attention that there may have been an error in the signing of an agreement. There have been discussions over the past week, investigated ramifications with the dating of the solar agreements. He has confirmed there is no tax fraud whatsoever. It is the intent of the Board this evening to sign and enter into an agreement with this vendor this evening. The intentions were to enter into agreement for land leases and has nothing to do with credits or when or where they may have been eligible. This is an agreement for the vendor to use our Town property and pay the Town to do so. Mr. Heitin feels that this resolves some of the issues. There are still some underlying issues associated with the design of certain cites. There is a design review Committee working toward a resolution of those design concerns before the Energy Advisory Committee puts forth its recommendation to the Board.

Ms. Smith-Lee stated that to be clear about chronology, the Board authorized the Town Administrator in September to negotiate this contract with the solar developer. This was a boilerplate contract which was provided by and signed by DSD, the solar developer in December. There was no advantage to be obtained by the execution of this contract on December 19. Ms. Smith-Lee is comfortable that there is a valid, clear, transparent contract signed on the correct date.

Judy Crosby of 6 Condor Road stated that simply because the fraud didn't accomplish what was intended doesn't take away the fact that fraud was committed. The fact that Town Counsel Lisa Whalen notarized and backdated notary action is a substantial point of concern. She expressed concern by the way it was just presented. No, it didn't impact the credits, but that isn't the point. She expressed her extreme outrage because of her concern about the affect this could potentially have on the Town's bond rating particularly because the Town achieved such a favorable rate for the High School project.

Ms. Smith-Lee commented that she doesn't feel that this document gets a pass, which is why the Board is in the process of fixing it. She concurs that the notarization is an important factor to consider. The intent tonight is to correct the record so that everything is accurate.

Ms. Crosby would like to know what actions have been taken to deal with the ethical violations of the Town Administrator and Town Counsel because they are not insignificant.

Mr. Ron Goodman of 4 Knight Road stated that there are several documents which are signed. There was a meeting in January and told that no contract been looked at or negotiated. Time has been spent going to meetings, getting ideas to make the project better for the abutters and the community which he feels was time wasted. He would like to know who negotiated the agreements.

The Board left finalizing the negotiations to the Town Administrator and Town Counsel. The Energy Advisory Committee began the negotiation of the contracts.

Mr. Turkington responded that to be clear, the documents were not backdated. DSD provided a boilerplate contract and signed it. The negotiations subsequent to that were done by Lisa Whalen and DSD's counsel. Input provided by Lauren Smith was included based on her own legal experience about the language in the lease. As documented and discussed, the lease pages were changed to reflect those negotiations. If there was an error in judgement made, it was not to substitute the first page of the document which lists the effective date of the document.

Lajos Kamocsay of the Energy Advisory Committee commented that the contracts were not boilerplate contracts as they had been negotiated up to that point. They continued to be negotiated after the formation of the design review Committee.

George Aronson of 229 Billings Street and the Energy Advisory Committee added some background to the discussion. He explained that the contracts submitted by DSD were provided as part of their proposal. There were 11 proposals received from 11 different vendors, all of which included a form of site lease and all of which were reviewed by the Energy Advisory Committee and discussed in open meeting. These were provided in response to and part of the RFP process. All proposals were reviewed and discussed in open session back in July. Town Counsel's guidance was solicited and obtained through the evaluation process. He doesn't want the impression to be that a boilerplate contract was looked at for the first time in December as it was provided in the RFP process.

Julie Rowe of 101 Hampton Road and member of Solar Design Review Committee would like to say that she is not entirely in agreement with the Board's timeline. She has prepared a timeline of events that she will email when through speaking. She feels that this contract was not signed or ready on December 19. She would like to ask if it is the policy of the Town to sign contracts, change them and move the papers around instead of modifying or nullifying the contract. If not, then why was it done? It seems like a very large error and she would like to know what kind of controls will be put in place so as not to happen in the future. The contract was uploaded to the Energy Advisory Committee Google drive in February although it had a December date. She stated that she was told by Silas Filer that it was typical for the industry for contracts to be backdated. She would like to hear more than this was just a mistake or error in judgement. She would like a formal policy to be issued that codifies contract management for the future.

Mr. Sid Jeevan asked what the changes were in the contract which was signed. Were the changes restricted to the feedback that was received or was it more substantial? Mr. Heitin replied that they were more substantial. The point he is trying to make is that the members of the Design Review Committee were asked to spend time reviewing and providing input from the perspective of the abutters.

Mr. Heitin explained that the negotiation aspect of this is closed. The Board is here tonight to correct a signature error which everyone agrees is a problem. He agrees with Julie that a formal process should be outlined. He acknowledges that this was indeed just a mistake. He has been on the Board for a long time and sees all contracts. Negotiations have concluded on this contract. The Town Administrator, members of the Energy Advisory Committee and Town Counsel each had a hand in the negotiations. Lauren's comments were taken into consideration and included to the extent possible into the contract. The task given to the Design Review Committee was just that, to review the solar design and layout at each site and help the Town design it in a way that would make the individual projects better.

Mr. Kamocsay explained that there have been frustrations experienced within the Energy Advisory Committee. He feels that the committee didn't negotiate the contract, rather only selected members of the committee negotiated the contract. He explained that the contracts are not the only issue. He thinks that what happened was a major breakdown in thinking and wondering if the Board is the right entity for approval of this contract due to its implication.

Ms. Smith-Lee agrees there were multiple breakdowns, some of which belong to the Select Board. Knowing now, the vote the Board took in September should certainly have included the Board having more of a role in the process. She acknowledged also that she hears that there may be breakdowns happening within the Energy Advisory Committee as well.

Mr. Kamocsay also expressed his concern that concerned citizens brought this issue to light which should be acknowledged by the Board. Mr. Heitin stated that this Board is thankful that it was brought to their attention and they want to get this corrected.

Mr. Goodman commented that the Design Review Committee and EAC had negotiated mitigation that the Solar Developer was going to pay for and to hear that the negotiation is over and the Board is going to renew a signature as of today he feels is a mistake as there is a better opportunity for the Town.

Mr. Aronson explained that the negotiation process was designed with an opportunity to come back to the Select Board for approval after the mitigation was investigated. It is his understanding that the process has not been completed and that there is still an opportunity for that mitigation to make its way into the exhibits.

Jennifer Kamocsay of 15 Pleasant Street commented that she is a transactional attorney and she feels that it is critical based on both conversations tonight with the Library application and solar leases which shows that there is a serious issue with who is retained as Town Counsel. Mr. Heitin explained that these two are two different parties. The Library Trustees submitted their application on their own for the grant without assistance from Town Counsel. She feels that Town Counsel is exposing the Town. Mr. Heitin will see to it that there is a formal communication from Town Counsel.

Mr. Kamocsay commented if there was one takeaway this evening, there are issues with the Energy Advisory Committee. Mr. Heitin acknowledged this and stated that this needs to be addressed but it wouldn't be this evening.

Mr. Heitin suggested that the comments of the Design Review Committee should be accumulated, work them into the appendices, work them into the contract over the next week and then execute the contract. The contract will be sent to the Energy Advisory Committee for review.

Mr. Galeota of Massapoag Ave commented that there seems to be a protocol that was missed. As a citizen, he'd like to know what protocols will be put into place so that this won't happen again.

Ms. Smith-Lee explained that it is more the norm than the exception that the Board physically reads contracts before signing them. In this case, the Board authorized Mr. Turkington and the Energy Advisory Committee to negotiate and sign these leases with the understanding and assumption that there is still opportunity to incorporate comments. Ms. Smith-Lee stated that the normal process is that the Board sees the final contract before signing. In this case, that did not happen.

Ms. Switlekowski explained that she doesn't feel comfortable signing the documents tonight and that the Board needs to take a hard look at Town Counsel and who they put their faith in and evaluate where they stand with the Town's representation. She shares in the frustration heard this evening.

The Board agreed that the contract review and approval process will be evaluated and codified for further action. They will continue their discussions associated with this. The Board will not sign the contract tonight. They will work in the negotiated points as discussed by Mr. Goodman and will execute the contract at the next meeting. They will address the issue with the Notary, the Energy Advisory Committee, and will take a formal vote at the next meeting formalizing the policy. Mr. Heitin thanked everyone for their participation this evening and recessed briefly to allow the attendees to exit before adjourning to Executive Session.

MOTION: To adjourn to Executive Session at for the purpose of discussing pending litigation. The Board will not return to open session. Discussion of this item in open session may have a detrimental effect on the litigation position of the Town.

Heitin: AYE
Switlekowski: AYE
Smith-Lee: AYE
3-0 **PASSES**