

## Select Board Meeting Minutes

Wednesday October 17, 2019 held in Room B-129, Swampscott High School, 200 Essex Street, Swampscott, MA

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

Members Absent: Hause

Other Town Officials Present: Sean Fitzgerald (Town Administrator), Ronald Mendes (minutes taker & Asst Town Administrator), Marzie Galazka (Dir. of Community Development), Molly O'Connell (Senior Planner); Kevin Breen (Fire Chief); John Picariello (ERAC Chair);

Others Present: See attached Sign-in Sheet

Mr. Spellios called the Select Board meeting to order at 6:02 pm.

Mr. Spellios led the meeting in the Pledge of Allegiance.

A presentation was given by a representative from WasteZero on the potential for adding certain services to the Town's Solid Waste/Recycling program that is designed to reduce waste from entering the regular waste stream, including contamination from textiles, pots, pans, silverware, books, records, etc. that add substantially into the waste stream. WasteZero is a waste reduction company. They largely service "pay as you throw" programs in many communities in the Commonwealth.

MOTION made (Dreeben), and SECOND (Spathanas) was made and it was VOTED to authorize the Town Administrator to enter into a contract with WasteZero to provide programs as explained in this presentation.

Mr. Spellios then asked to proceed to a discussion on the Special Town Meeting warrant. Mr. Fitzgerald then stepped through the town meeting warrant articles describing the intent of each article in greater detail:

Article 1: Reports on various topics

Article 2: Budget Amendment in the sewer enterprise fund

Article 3: Transfer from Retained Earnings in the Sewer Fund to mitigate increases in sewer rates

Article 4: Acceptance of Nonresident Tuition or Foster Care Revolving Fund

Article 5: Appropriation of Funds from the Transportation Network Fund

Article 6: Appropriation from Free Cash to reduce tax levy

Article 7: Appropriation from Free Cash to support Collective Bargaining Agreements

Article 8: Appropriation to purchase Sidewalk Maintenance Equipment

Article 9: Amend Zoning Bylaws – Update Fees in Lieu of Affordable Housing

The board would like to move Article 4 to be the 2<sup>nd</sup> from the last article. It was also discussed that the appropriations under Article 5 be more specific as to the use of the funds. At this point there are no recommended transfers under Article 7 but should there be a contract finalized before town meeting a recommendation may be forthcoming.

MOTION was made (Dreeben) and SECOND (TITCOMB) and it was VOTED to close the Special Town Meeting Warrant subject to further review by Counsel.

There was then some discussion about deferring the conversation regarding policies and procedures on the establishment of marijuana dispensaries in the Town of Swampscott that was on the agenda for this meeting. This discussion will be placed on the agenda of the November 6<sup>th</sup> meeting.

The meeting then turned to the further discussion on the operations at the Aggregate Industries' quarry. There will be a presentation and town officials, representatives of Aggregate Industries and members of the public will be given the opportunity to address the board on this matter.

Mr. Spellios began the discussion by explaining many of his concerns surrounding the impact the blasting at the quarry has had on neighbors. He indicated that while he appreciates the willingness of Aggregate Industries to engage in this discussion, he expects that this issue will be addressed by the time the current earth removal permit expires.

Mr. Fitzgerald then stepped through a presentation on the issues concerning blasting at the quarry. He was joined by Fire Chief Breen and Mr. Picariello, Chair of the Earth Removal Advisory Committee.

Blasts have increased by 60% since 2016. The Town's earth removal permit and bylaw is strong and does not allow earth removal if this activity is not unreasonable, will not cause excessive traffic among other restrictions. The quarry straddles the town line with the City of Salem, but the vibrations that occur on the Salem side of the line are often felt in Swampscott. Options may include limiting the depth of blasting and other restrictions that are designed to limit the effects of blasting on the neighborhood. Chief Breen stepped through some of the requirements of the State Fire Marshall's Office, including blasting complaint forms and the involvement of both the local Fire Department and the State Fire Marshall. Blasting has not actually occurred on the Swampscott side of the town line since 2015. Since blasting has occurred on the Salem side of the line, which means that enforcement would fall under the jurisdiction of the Salem Fire Department. However, the Salem Fire Department and Swampscott Fire Departments have been cooperating on all blasting regardless of whether the blasts occur in Salem or Swampscott.

Blast complaint must be completed and filed with the Fire Department within 30 days of the blast in order to be able to receive any award for alleged damages to property. Once forms are received they are forwarded to the State Fire Marshall and if the blast exceeded acceptable state limits, then the State Fire Marshall continues with an investigation.

Chief Breen then review the blast that occurred on October 16<sup>th</sup>, which received many complaints both at the Department, as well as on social media. Notwithstanding the complaints, this blast was within state mandated acceptable limits. There was also a discussion about what constitutes "reasonable" under the Town's bylaw. This blast was recorded, and the video was played for the benefit of the board members. The issue with the video is that it stops once the blast is completed and does not record how the dust settles. Mr. Picariello reviewed the social media complaints. He said that the blasting is not only affecting the immediate neighborhood, but also affects many other residents throughout the town, including some complaints received from Marblehead residents.

Mr. Picariello then stepped through several recommendations that ERAC is presenting, including new enforcement powers under the permit, establishing blast limits that are less than those provided under state regulations, facilitating neighborhood communications with Aggregate, and simplifying the claim process by adding it to the town website and improving communications. Also, it is being recommended that an additional claims process separate from the state claim process be instituted. Additionally, it is

being recommended that dust studies be conducted, weather requirements be imposed, and permanent seismic monitoring on the full perimeter of the quarry. There are many additional recommendations that ERAC and the Town will be working with Aggregate Industries in order to mitigate the effects of blasting on the neighborhood.

Mr. Picariello indicated that Aggregate Industries will be offering pre-blast surveys, among other protections, which will be discussed with appropriate town officials. There was then some discussion about further information that is needed in order to make an informed decision on revisions to the earth removal permit. It was also pointed out that this quarry is the largest quarry in the region.

The entire presentation Mr. Picariello stepped through will be available online, including the many recommendations that were made. There are also tests of water quality from Fosters Pond that are taken regularly, and Mr. Picariello receives those reports monthly. There was some question on who owns the pond and it appears that no abutting property owner owns into the water. Town Counsel is researching further into the question of who owns the pond. ERAC is researching into similar permits issued in Saugus, Peabody and Littleton for best practices. There was then some discussion about the possibility of hiring experts to consult with the town on its continued relationship with Aggregate Industries. There was also discussion about the amount of the permit fee, which is currently \$500 and whether that fee accurately represents the cost to the Town of administering this permit.

Mr. Kurt Hine of Aggregate Industries was then invited to address the board. Mr. Hine provided a progress update of some of his conversations with the neighbors. He met with ERAC 3 times, as well as some other town officials. Some of the actions that are in progress include managing the volume of material that is covered. They are trying to focus on blasting and dust. The numbers of people on the blast notification list has increased from approximately 25 to over 75. They will no longer conduct 80-foot shots on the floor of the quarry. They are now doing more 40-foot shots. Maximum depth of shots on the floor of the quarry is now approximately 54 feet. Blasting frequency is going to be reduced to no more than twice per week. They have started placing an additional seismograph on their property to the south of the property, in addition to the other seismographs that are to the north and west of the property. They have agreed not to operate at all past 9:00pm. They are drafting pre-blast survey letters to be sent to residents. They have hired a consultant to provide advice to them on blasting, neighborhood complaints. They will conduct a dust study that will include studying the volume of the material and where the dust is coming from and where the dust volume is settling and testing the composition of the dust. Other issues raised include noise modeling and sound barrier options, removing the blast warning siren, issues related to Fosters Pond, and work on a closure master plan.

Mr. Spellios then allowed residents to address the board should they choose to do so. A resident approached the microphone and said that the town needs to hire a consultant to study noise quality and get reports from Aggregate and have these reports studied by a consultant to provide advice on further steps that can be taken. Another resident indicated that she is grateful for the information provided tonight, including compliance v. reasonableness. She expressed concerns that state standards do not provide enough protection from property damage. Another resident addressed the board and thanked everyone involved on their efforts to address these issues. She expressed further concerns about dust and the operating times for the quarry. She feels that 9:00pm is too late for a quarry to be operating. Another resident expressed concerns about damages that have been done in the past over the years because a pre-blast survey will only address damage done after the date of the pre-blast survey. She also said she has never heard about anyone being paid based on any claims filed.

Board members would like to know a time frame for the plan forward on addressing these issues. The steps forward include continued discussion with Aggregate, Salem and Marblehead to discuss mitigation

of dust, blasting and truck traffic. Absent significant progress the Town will advance technical review and possible revocation of the ERAC Permit.

The board then discussed interim conditions that the board expects to be met by November 20<sup>th</sup>. The board asked that interim conditions be developed within the next several days that need to be followed and made available online. Mr. Picariello also expressed that he is also personally affected by the blasting because his property is also experiencing damage resulting from the blasting.

A resident also asked to address the board regarding the damage blasting form. She feels that the blasting form and the process involved is not user friendly. Mr. Spellios indicated that he wishes to establish a claims process that is independent of the state process that will be more robust.

Mr. Spellios then moved to the consent agenda. He explained the purpose of the consent agenda and listed the items on the consent agenda. He is asking to table the approval of the two gifts from David Grishman and True North Ale.

MOTION was made (Dreeben) to accept the Consent Agenda less the acceptance of the two gifts from David Grishman and True North Ale; SECOND (Titcomb) and it was VOTED to approve the Consent Agenda as presented less the two items tabled.

Mr. Fitzgerald then stepped through the Town Administrator's Report.

In Selectmen's time, Ms. Dreeben said she spoke with a resident concerned about the lights at the field and wanted to know the regulations and timing of activity on the field at night. Could there be adjustments to the direction of the lights or other adjustments that can be made to mitigate the effect on nearby residents. Ms. Titcomb said that she and Ms. Galazka met with representatives of B'Nai B'Rith on the development of the Machon School. Draft copies of the plans for the development have been received and there is 10 days to respond. Board members would like to see parking plans, construction plans, and other specifics on how the development of the project will impact the neighborhood. Construction is expected to start in March 2020. There was also a traffic study impact study that was asked to be shared with board members. Ms. Titcomb also reached out to Sean generally about the Traffic Study Advisory Committee. There was a recommendation about a Stop sign being placed at the intersection of Buena Vista and Roy Street that has not yet been advanced to the board. There is feeling that the composition of the Traffic Study Advisory Committee needs to be revisited.

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

Meeting Adjourned 9:10pm.

Respectfully submitted,



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

Minutes APPROVED by vote of the Select Board 11/06/2019