

Finance Committee Meeting Minutes
Friday, August 3, 2018
Town Hall

Meeting called to order at 4:00 pm

Present: Tom Blauvelt, Michelle Loubert, Anne O'Dwyer Also in attendance was Jennifer Tabakin (who came in after the discussion of Article 3).

Selectboard members Ed Abrahams and Steve Bannon were in the audience.

Michelle Loubert made a motion to approve the minutes from the July 17th meeting. Members noted that there were minor grammatical/spelling corrections (e.g., the last line on point #1 should read "motion to recommend single tax rate for Fiscal Year '20" [not '19, as in original minutes]). This motion was seconded by Anne O'Dwyer, and all approved the minutes with these corrections.

Article 2: \$65,000 to pay the construction costs to complete the transfer station garage project. The committee reviewed the rationale for the appropriation of these funds. It was noted that the cost of this project is greater than originally anticipated as, the original budget was done in 2015, when costs were lower. Tom Blauvelt pointed out that the project has come this far, and we should fund it being completed. The committee recalled that these funds will need to be borrowed. Michelle Loubert made the motion to send a positive recommendation on Article 2; this was seconded by Anne O'Dwyer, and all voted in favor.

Article 3: \$20,000 for the Town Hall roof replacement project, including the replacement of two chimneys. The committee reviewed that these funds will be appropriated from the Community Preservation Fund. All agreed that these repairs are necessary; Michelle Loubert observed that it is more cost effective and efficient to spend these funds now (when associated work is already being done on the roof) than wait until the situation gets worse, when repairs will most certainly be more costly. Anne O'Dwyer = made the motion to send a positive recommendation on Article 3; this was seconded by Michelle Loubert, and all voted in favor.

Article 4: \$298,000 from the Sale of Real Estate fund for the purchase of property at 11 Roger Road.

Members of the Finance Committee asked numerous questions of the Town Manager (and Selectboard members who were present in the audience):

a) Why two parts to the article? The committee asked why there are two parts to the Article. Ed Abrahams explained that the first part of the article, if approved, would authorize the town to make the offer to purchase the property; the second part would authorize the Selectboard to take action on the property, if it is acquired. If the first part is not approved; the second will not be put forward at the Town Meeting.

[the Town Manager joined the meeting at this time, and was present for the remainder of the meeting]

b) Why no plan for use of the land? The committed expressed concern about purchasing a plot of land for which there are no plans for use. Steve Bannon explained that the Selectboard did not discuss possible uses—was waiting to first have permission from the town to purchase it.

c) Why is the offer amount (\$298,000) considered a reasonable amount?

Steve Bannon pointed out that the town has been in court regarding various legal matters related to this property since the 1990's. He suggested that if we continued with the legal route regarding this property, no matter how the court rules, the ruling will be difficult to enforce, so either way the town will continue to have legal fees. He suggested that the purchase of the property "stops the bleeding."

Michelle Loubert asked if the town's attorney had made a projected costs estimate – and a cost-to-date summary; she suggested that in the information sheet made available to the public re: this purchase, the phrase "many tens of thousands" in relation to legal costs is too vague. She had sent this request to Jennifer Tabakin prior to the meeting. Jennifer Tabakin distributed a summary sheet (now also available on the Town website).

The summary estimated that the town has already spent \$30,000 on the most recent legal matters around the property; but Steve Bannon and she pointed out that there were expenses also in prior years with prior legal actions around the property. She suggested that \$298,000 is the lowest the Town was able to get the property owners to come down to (from their asking of \$400,000), and that the expectation is that the town will be able sell the property (if that is the decided use) for at least \$200,000. Thus, Jennifer Tabakin—and the Selectboard members present—suggest that this purchase makes for a zero net cost to the town (see below: from the summary sheet referenced above):

- By purchasing the property, the Town avoids having to pay up to \$100,000 in legal fees to defend the ZBA ruling.
- The accepted offer, contingent on Town Meeting approval, is \$298,000.
- One scenario is that the Town would sell the property for at least \$200,000, taking a conservative price, which is lower than the current assessed value of \$255,300.
- This would be a net cost to the Town of \$98,000.
- This cost would be offset by the (\$100,000) savings in the legal fees for continued litigation, so the Town would essentially break even in this scenario.

Tom Blauvelt asked about closing costs and insurance costs. Jennifer Tabakin responded that both these costs would be minimal (and the latter likely close to nothing). Michelle Loubert asked about loss of tax revenue from the property. This loss, apparently, would be minimal, and only a long-term loss if the town decides not to sell the property.

d) What about the possible environmental issues at the property?

Anne O'Dwyer asked about the potential environmental issues, and the possible costs associated with remediating these issues. Jennifer Tabakin, Ed Abrahams, and Steve Bannon all responded that the offer on the property will, of course, be contingent on a favorable environmental review. An offer on the property, once accepted by the owners, will be followed by an environmental review. The environmental report will be reviewed by Selectboard and made available to the public. Steve Bannon said that while the Selectboard has not yet begun this phase of the

discussions regarding the property (as the town does not yet own it), he is not planning on putting any town money into the remediation of the land.

3) Are there adequate funds in the Real Estate Fund?

Michelle Loubert asked if the Town's Real Estate Fund, from which the monies for this purchase will be appropriated (if the purchase were to be approved by the town and go through with the current owners), had enough in it to absorb this expense. Jennifer Tabakin responded that the current balance in the fund is just over \$600,000, and thus the fund can absorb this expense (and, if the property were to be sold, a significant portion would be returned to the fund from its sale). Michelle Loubert asked about the effect of the purchase on property taxes, and Jennifer Tabakin pointed out that while it is an expense to the town, it will not affect residents' taxes.

4) Will this set a precedent for future property zoning issues?

Anne O'Dwyer asked if this is a very exceptional case or is this a new precedent for how the town plans to handle problematic zoning issues. Jennifer Tabakin, Ed Abrahams, and Steve Bannon all responded that this was an exceptional case. This is a situation where there is a commercial trucking company in a residential area—because the company existed long before the zoning was put into place (so is “grandfathered” in). Also, they reported that there has been an enormous amount of effort to resolve this, but no progress. The ZBA is in favor of purchasing the property. Steve Bannon told the committee that zoning is, in actuality, very difficult to enforce.

Tom Blauvelt asked if in this agreement (with the owners of the property) the Town can collect any of the past fees. Apparently, we cannot. Michelle Loubert asked if we had gone after the fines, would this have offset the cost? Steve Bannon replied that fines don't multiply; they are only at the one instance, so there is no “back payment” fines which add to the original fines. So, the fines the town could accrue from the property, even if the Town's position were upheld in court, are not a lot. Jennifer Tabakin observed that we might have done more early re: fining, but at this point, it is a bit late. Now, we'd need to go to court to have the fines in place, and the fines may be not upheld. Also, Michael Wise, ZBA member, from the audience, added that the ZBA regulations are complicated and hard to enforce. Jennifer Tabakin described this solution as one of those offered by the town's lawyer, and this is the one that she and the Selectboard felt was the best option.

Michael Wise, again from the audience, observed that there might be a neighborhood association that comes together to purchase the land (from the town). Jennifer Tabakin replied that if the town does decide to sell the land, we would take RFP's. She pointed out that if this warrant is approved and the town buys the property, the town can make commitment to residential (or open space). If we let a private buyer get it now (not via an initial sale to the town), the new buyer could continue the non-conforming zoning activity (grandfathered in).

Anne O'Dwyer called a motion to send a positive recommendation on Article 4; this was seconded by Tom Blauvelt. Tom and Anne voted in favor; Michelle Loubert voted against. The motion passed.

Michelle Loubert then asked Jennifer Tabakin if there were any updates on the Articles 22 and 26 – both voted on and passed—from the most recent May Town Meeting (copied here from the May 2018 Town Warrant, below):

Article 22: Citizen Petition: It shall be Unlawful to Sell Non-Sparkling, Unflavored Drinking Water in Single-serve Containers of 1 liter (34 ounces) or less in the Town of Great Barrington on or after January 1, 2019, and to Amend Chapter 1-5.1, Noncriminal Disposition Bylaw.

Article 26: Citizen Petition: To amend and add the following to the Great Barrington Bylaw: The Acceptance Period of Citizen Petitions will be No Less than Thirty (30) day

Jennifer reported that, no, these had not yet been approved by the State AG – she said they anticipate reviewing them by late in August.

Citizen Speak – no additional comments or questions from the audience.

Adjourned – 4:46 PM

