

## **Great Barrington Select Board**

Town Hall

Great Barrington, MA 01230

Minutes of July 22, 2019, 6:00 PM meeting

Attending were Chair Steve Bannon, Vice-Chair Ed Abrahams and members Bill Cooke, Kate Burke and Leigh Davis, also Town Manager Mark Pruhenski.

### **1. Call to Order**

The meeting opened at 6 p.m. in the Conference Room, Town Hall.

### **2. Board Business**

On a motion by Mr. Abrahams, seconded by Mr. Cooke, the board unanimously approved the minutes of a joint Selectboard and Planning Board meeting held June 27, 2019.

### **3. Board Statements**

Mr. Abrahams offered the board's recognition and sympathy to **Police Officer Chad Shimon**, who was injured while on duty July 12.

### **4. Town Manager's Report**

Mr. Pruhenski said he has received 13 resumes from individuals interested in being appointed **town clerk**. He said he would interview three candidates this week. He said Ellen Dupont is acting as interim town clerk, with Marie Ryan assistant.

He said National Grid is working on streetlights on lower **Railroad Street** this week.

### **5. Licenses and Permits**

**Peter A. Sweet Jr.**'s application for a driveway permit at 49 Seekonk Road was approved unanimously by the board following a motion by Mr. Abrahams, seconded by Mr. Cooke.

Application by Patrick Hollenbeck/**Library Board of Trustees** for a one-day beer and wine liquor license for Aug. 11, 2019, from 4 to 6 p.m. at Mason Library, was approved unanimously following a motion by Mr. Abrahams, seconded by Mr. Cooke. (Mr. Abrahams noted he is president of co-sponsor Friends of the Great Barrington Libraries but stands in no way to benefit financially from the activity and thus participated in the vote.)

Application by Jenise Lucey, **Berkshire South Regional Community Center**, for a one-day beer and wine liquor license for Aug. 2, 2019, from 6 to 9 p.m. at 15 Crissey Road, was approved unanimously following a motion by Mr. Abrahams, seconded by Mr. Cooke.

Application by Jenise Lucey, **Berkshire South Regional Community Center**, for a one-day beer and wine liquor license for Aug. 14, 2019, from 6 to 9 p.m. at 15 Crissey Road, was approved unanimously following a motion by Mr. Abrahams, seconded by Mr. Cooke.

Application by Kent Lemme, **Berkshire Running Center**, for permission to hold a fifth annual eight-mile road race on Aug. 4, 2019 starting at 8 a.m. north of Big Y on Route 7 and finishing at the Guido's parking lot was approved unanimously following a motion by Mr. Abrahams, seconded by Mr. Cooke.

## 6. Public Hearing

The board on a motion by Mr. Abrahams, seconded by Mr. Cooke, voted to open the continued **Berkshire Pleasure Hospitality** LLC d/b/a/ The Barrington, Carrie Chen, manager, hearing for a new innholder's hotel all alcoholic liquor license at 281 Main St., Level 3. The vote was Mr. Abrahams, aye; Ms. Davis, aye; Mr. Cooke, aye, Mr. Bannon, aye. (Ms. Burke had recused herself).

Attorney Kathleen McCormick, representing the applicant, said The Barrington has seven tourist home suites. The permit is sought so the business can serve alcohol to guests in the dining area and in their rooms. She made the distinction that this is not a restaurant license. The Barrington's innholder license allows the serving of meals with lodging.

Attorney Alexandra Glover, representing the Southworth Condominium trustees, said there is concern The Barrington activity could creep into serving meals and alcohol to guests and their invitees and to hosting private parties/events, in conflict with the condominium agreement. She said there is concern about the potential impact on condominium owners on the first two floors. She said The Barrington now has a commercial kitchen and has hired a chef.

Attorney McCormick said there are matters of interpretation and potential vs. actual use. She said guests attending functions only, without being room guests, would require a new permit and a common victualler license and approval by the ABCC.

Bob Tuttener, who owns a condo on the second level, beneath the new dining area, said constant noise including footsteps comes from The Barrington. He said condominium rules forbid one owner taking away from the peace and quiet of another owner.

There continued discussion regarding how many guests could be at The Barrington (the building permit allows 29, the new dining room seats 40).

Ms. McCormick said the number 40 was inserted by the architect to meet code. She said the rooms are marketed as a culinary destination, with guests coming for wine tasting or food consumption weekends, for weddings and anniversaries. She said no meals are served after 10 p.m., but the owner would like to be able to supply alcohol to guests in their rooms or in the common area until 1 a.m.

Mr. Tuttener, who said he opposes the permit entirely, said The Barrington's wooden floor is noisy and manager Chen knows insulation is the recommended remedy.

Second-floor condo owner Suzanne Mitchell said she and others hear the noise of vacuuming and walking.

Ms. Glover suggested only two scenarios have been discussed: service to tourist home guests and restaurant service. A third scenario is private events, open to the public.

Ms. Chen discussed how she markets The Barrington and said events are not open to the general public.

Mr. Abrahams moved to close the hearing, Mr. Cooke seconded, the four members voted in the affirmative.

Mr. Cooke moved to issue the permit with restriction to 20 guests, no meals after 10 p.m., in-room alcohol service until 1 a.m. Ms. Davis seconded.

After further discussion, the motion passed. The vote was Ms. Davis, aye; Mr. Cooke, aye, Mr. Bannon, aye. Mr. Abrahams voted nay.

## 7. Old Business

The board continued discussion of its recommendation for **A&A Memorials Inc.**'s application to the Zoning Board of Appeals for a special permit to expand a pre-existing nonconforming use from a welding shop and construction company to add services related to the construction, storage and sales of stone including cemetery monuments at 57 VanDeusenville Road. (Mr. Bannon recused himself and left the room.)

Attorney Lori Robbins, representing the applicant, offered documentation and affidavits to support the assertion the property, once part of Bill Gillette's property, was in industrial use since the 1950s. Richard Atwood has acquired Housatonic Welding and wants to bring his business, A&A Memorials, currently run from his home, to the site. She said some sandblasting will be done here, but most sandblasting will be completed at cemetery locations. There are three employees, parking for 15 to 20 vehicles. The property is surrounded by property owned by Jeannie Bachetti, AmeriGas, a solar field and the railroad.

Michelle Loubert of Division Street made a general complaint about truck traffic, specifically garbage trucks.

Ms. Robbins said Roger Trucking is continuing an arrangement with the property's previous owner to store vehicles there. She pointed out dump trucks from the Nolan gravel bed and other commercial vehicles use VanDeusenville Road and Division Street. Mr. Atwood said he continues the arrangement while Roger Trucking looks for another site.

Mr. Cooke moved to make a positive recommendation to the ZBA, Ms. Burke seconded. The four members voted in favor.

## **8. Public Hearing**

The board at 7 p.m. on a motion by Mr. Abrahams, seconded by Mr. Cooke and aye'd by all, opened a public hearing on **Community Development Corp. of South Berkshire** for a Water Quality Protection Overlay District special permit and a Floodplain special permit, in accordance with Sections 9.1, 9.2 and 10.4 of the Great Barrington Zoning Bylaw. The permits are requested in connection with the planned redevelopment of the entire 100 Bridge Street site, including a residential facility on the north end of the site and the already permitted affordable housing on the south end of the site.

Bryan J. Balicki, senior engineer, Sage Engineering & Contracting, Westfield, said development of 100 Bridge St. is in three phases: remediation of pollutants on the entire parcel, confining contaminated soil to two on-site, capped berms; construction of affordable housing on the south side; and construction, probably, of age-restricted housing on the north side. He said calculations were based on a worst-case scenario to meet floodplain and water quality requirements. This would be no worse, and could well be better, regarding permeable vs. impermeable soil.

After further discussion of the project, Tim Geller of CDC said the immediate neighbors like the concept of facing a vegetative Bentley Avenue berm. In answer to a question from Ms. Burke, he said there is no evidence PCBs have any effect on the bee population, and in fact DEP recommended planting of pollinators.

Mr. Geller offered language edits to the proposed document: Bottom of Page 1, last sentence, delete "is" and replace "200 feet" with "100 feet." On Page 3, C4, "in order or ensure" change "shall evacuate" to "notify tenants to evacuate." In F #1, add the word "to" so the first sentence of the proposed condition reads "This floodplain and water quality special permit approval is intended to permit the remediation...."

## FINDINGS OF FACT AND BASIS FOR DECISION

**Re: Special Permit #892-19, 100 Bridge Street**

### A. Introduction

This Special Permit application was filed on June 12, 2019 by the Community Development Corporation of South Berkshire, the owner of 100 Bridge Street, the subject site. The Applicant is seeking a Selectboard Special Permits for the floodplain protection overlay district and the water quality protection overlay district, pursuant to sections 9.1 and 9.2, respectively, of the Zoning Bylaw, in order to conduct environmental remediation and redevelopment of the subject site.

The application includes a narrative written by Furrow Engineering, on behalf of the CDC, and a 15-sheet plan set prepared by Furrow Engineering, dated 4/30/2019.

### B. General Findings

The site is in the B-3 (Downtown Mixed-Use) zoning district. Most of the site is also within the 100-year floodplain and is subject to the Floodplain Protection Overlay District. The entire site is within Zone II of the Water Quality Protection Overlay District.

The site has frontage along Bridge Street and Bentley Road, and is bounded on the west by the Housatonic River and on the south by the Town's wastewater treatment plant. The site is approximately eight (8) acres and is vacant. It was the former New England Log Homes Company site, whose operations contaminated the property, but the CDC has owned the site since 2007. Since then the CDC has demolished the old buildings and has explored a variety of remediation and redevelopment plans. The CDC has now arrived at a final redevelopment plan and seeks these special permits in order to begin work.

As described in the narrative and as shown on the accompanying plans, the Applicant seeks to remediate the site and then redevelop the site. In accordance with its Remediation Implementation Plan (RIP), which is awaiting final Mass DEP approval, the site remediation will consist of moving the contaminated surface soil from all areas of the site into two large berms, one along Bentley Road and one along the southern property line. The berms will be permanently capped with clean soil and will be subject to permanent restrictions and guarantees.

Once remediation is complete the CDC will redevelop the site. The southern half of the site will be a two-building, 45-unit affordable housing development. This use is already approved by the Town, via the 40B Comprehensive Permit issued by the Zoning Board of Appeals.

The northern portion of the site is presented at this stage as a conceptual plan for a three story 21,500 square foot residential facility which will include some type of long term assisted living care. This particular use is not yet permitted by the Town and may require special permits for redevelopment in the B-3 zoning district and for assisted living.

The site improvements also include two parking lots (one south and one north) with a combined 129 paved parking spaces, two new driveways (one onto Bentley and one onto Bridge), landscaping, stormwater management system, and typical utilities. The redevelopment does not place structures or paved areas within 100 feet of the Housatonic River, reserving this area primarily for open space/recreation and stormwater retention basins.



The above proposed activities require floodplain and water quality protection special permits under the Zoning Bylaw. These two special permits are the only activities under review by this current application before the Selectboard.

The Conservation Commission has reviewed and approved with conditions the remediation and redevelopment plans for the entire site; there are no further jurisdictional issues or permits needed from the Commission.

The Planning Board reviewed the special permit application and made a positive recommendation to the Selectboard, with the understanding that the development and impervious area of the northern portion of the site is still conceptual.

The Board of Health made a positive recommendation on the special permit application.

### C. Floodplain Overlay District Criteria and Specific Findings

Per Section 9.1 of the Zoning Bylaw the project requires a Floodplain special permit because it involves the erection of new structures and/or filling, transfer, relocation or excavation of earth materials. The Selectboard as the special permit granting authority (SPGA) reviews the application to ensure that work in or use of the Town's floodplains does not endanger the health or safety of the occupants thereof, or of the public, and that flow patterns of watercourses will continue to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.

Work in the floodplain that is subject to a special permit involves any removal of material or filling of the floodplain at or below the 100-year flood elevation. In this case, the proposed soil berms and the proposed buildings will be built within the floodplain, but the proposed redevelopment also removes fill elsewhere on site. Overall, the result is that there will be more flood storage, at each foot interval of flood elevation, than exists currently. This net increase in flood storage volume is detailed on sheet C-8 the accompanying plans (the table in the application narrative is not correct). Further, as shown on the plans, the proposed building utilities and habitable floor levels of the buildings will be above flood elevation.

Finding: The Selectboard finds that this proposal includes residential uses within the floodplain area, but the proposed residential buildings are to be situated above flood stage so as not to endanger the occupants or vital building systems, and additional flood storage and flood flow devices are proposed on site to ensure no reduction of flood storage capacity and no restricted movement of flood waters in the floodplain.

Section 9.1.5 requires the SPGA to ensure that the applicant provides sufficient information to determine:

(1) That the floor level of areas to be occupied by human beings as living or working space shall be at a safe elevation;

Finding: All floor levels of buildings are proposed to one foot above the flood level of 674.5 feet.

(2) That furnaces and utilities are protected from flooding and that the structure will withstand the effects of flooding in accordance with the State Building Code;

Finding: All utilities will be protected from floodwaters.

(3) That the proposed construction, use or change of grade will not obstruct or divert the flood flow, reduce natural water storage or increase stormwater runoff so that water levels on other land are substantially raised or danger from flooding increased;

Finding: The application has demonstrated that there will no loss of floodplain storage, and the foundations will not obstruct flood flow, runoff, or water storage, and will not increase flood water levels on other land.

(4) That safe vehicular and pedestrian movement to, over and from the premises is provided in the event of flooding; and

Finding: There is access to the site from public ways that are above flood level. Most of the site itself is below flood elevation and it is not possible to elevate all proposed parking lots, driveways and walkways above flood level. Therefore in order to ensure safety in the event of a forecasted flood event, the site managers shall notify tenants to evacuate the site prior to flooding.

(5) That the proposed methods of drainage and sewage disposal are approved by the Board of Health and will not cause pollution or otherwise endanger health in the event of flooding.

Finding: The site will be connected to public sewer system as is permitted by the Board of Health. The sewer and stormwater systems are buried at sufficient depth so as not to be eroded or damaged by floodwaters, and the sewer services in the buildings are above flood level.

Section 9.1.6 of the Zoning Bylaw requires the Special Permit Granting Authority (SPGA), in this case the Selectboard, to find the following in order to grant a floodplain special permit:

(1) The use would otherwise be permitted if such land were not, by operation of this section, in the Floodplain Overlay District;

Finding: The affordable housing is already permitted by Comprehensive Permit from the Zoning Board of Appeals, and the planned residential facility on the northern portion may be subject future special permits to allow that use.

(2) The use of such land for the proposed purpose will not interfere with the general purpose for which such Floodplain Overlay Districts have been established.

Finding: The proposal includes additional volume of flood storage so as to ensure no reduction of flood storage capacity or movement of flood waters.

Section 9.1.7 states that special permits for work in the floodplain issued under this section may be subject to such conditions as the SPGA deems necessary in the interests of the public health, safety and welfare. The burden of proving that the proposed use will not endanger the public health and safety of the occupants or the public shall rest upon the applicant.

Finding: The Selectboard does not see the need for any conditions of this nature.

Section 9.1.8 requires certification by a professional engineer, registered and licensed in the

Commonwealth of Massachusetts, to demonstrate that proposed floodway encroachments shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.

Finding: The proposed work is not within the delineated floodway; this is not applicable.

Section 9.1.9 states that granting of a special permit under this section by the SPGA does not in any way indicate compliance with the provisions of the Wetlands Protection Act, MGL c. 131, Section 40, which provides, among other things, that no person shall remove, fill, dredge or alter any swamp, creek, river, stream, pond or lake or any land subject to flooding, except with a written permit from the Conservation Commission.

Findings: Applicant filed for and received an Order of Conditions from the Conservation Commission, as required by the Wetlands Protection Act.

#### D. Water Quality Protection Overlay District Criteria and Specific Findings

Per Section 9.2.12 of the WQPOD, the proposal requires a special permit because it increases the impervious area of a lot by more than 15% or 2,500 square feet. The special permit requirements of the WQPOD ensure that a project provides a method(s) to capture, treat, and infiltrate stormwater into the underlying aquifer, so that the development of impervious surface does not degrade the quality or quantity of water entering into and recharging the groundwater aquifer.

A stormwater management report was prepared by the site engineer, Furrow Engineering. The report provides a description of proposed stormwater management measures, including detention basins and underground infiltration chambers, and describes how the measures comply with the Town's water quality and aquifer recharge requirements. As detailed in the proposed plans, these measures are designed and sized appropriately for the amount of new impervious surface, the underlying soil types, and unique characteristics of the site. The Engineer calculates that 3,164 cubic feet of recharge volume is required in order to balance out the proposed impervious surface. The Applicant proposes recharge volume of 24,683 cubic feet.

The stormwater report shows that implementation of the proposed measures will result in less runoff from the site after development than there is now. The report also includes an operations and maintenance plan to ensure the stormwater measures will operate as designed.

Section 9.2.13 item 3 states that the Selectboard may grant the special permit if it finds the standards of 9.2.8 (Prohibited Uses), 9.2.9 (Prohibited Uses, Inner Zone), and the following two standards, are met: (a.) [the project will] in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the WQPOD; and (b.) [the project] be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

The Selectboard hereby finds:

1. The proposal complies with Sections 9.2.8 and 9.2.9.
2. More than the required amount of recharge volume is provided and the proposed stormwater management and groundwater infiltration measures comply with the standards of this section.
3. The project will not diminish the quantity or quality of water available in the WQPOD.
4. The project is designed to avoid substantial disturbance of the soils, topography, drainage, and other water-related natural characteristics of the site. The Board notes that the remediation of the site, by its nature, will disturb the entire site, but the Board finds the future remediated and developed condition of the site will result in more benefit and protection of the groundwater.



#### E. Special Permit Criteria and Findings

Section 10.4.2 of the Zoning Bylaw, granting of a special permit requires a written determination by the Special Permit Granting Authority “that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.” This determination shall include consideration of the following criteria:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and,
6. Potential fiscal impact, including impact on town services, tax base, and employment.

Consideration of the Criteria in relation to SP #892-19:

Per Section 10.4.2 of the Zoning Bylaw, granting of any special permit requires a determination by the Special Permit Granting Authority “that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.”

The Board recognizes that this special permit application is to allow the remediation work to be implemented in accordance with the Mass DEP approved RIP, and to allow for the redevelopment activities already permitted by the Zoning Board of Appeals, i.e., the affordable housing, to be implemented in the flood plain and water quality protection districts. The Board recognizes that the development of a residential facility on the northern portion of the site is still conceptual, but the applicant seeks to permit site remediation in this area, and ultimately the development of a certain amount of building / impervious surface in that area. With that in mind, the Board’s considerations, below, in relation each of the six special permit criteria, are limited and shall not be construed to reflect its approval of the conceptual use of the northern portion of the site. The use of the northern portion of the site, and any positive or negative impacts of the use, will be reviewed and evaluated at a later date when zoning approvals are sought for that portion of the site.

Criterion 1. The proposed remediation and redevelopment will remediate a contaminated site and provide open space, affordable housing, and tax revenue to the Town, all in accordance with the goals of the Town’s 2013 Master Plan.

Criterion 2. The Board has no concerns at this time. Impacts of the affordable housing development were reviewed and permitted by the Zoning Board of Appeals. Impacts the northern portion of the site are not yet known, and will be reviewed by the Selectboard and/or Planning Board at a later date when zoning approvals are sought for that use.

Criterion 3. The site is in a previously developed area served by adequate public utilities and services for the proposed work and future uses.

Criterion 4. Neighborhood character and social structures. The Board has no concerns at this time. Impacts of the affordable housing development were reviewed and permitted by the Zoning Board of Appeals. Impacts the northern portion of the site are not yet known, and will be reviewed by the Selectboard and/or Planning Board at a later date when zoning

approvals are sought for that use.

Criterion 5. The environmental impacts of the proposed work are within the parameters established by the floodplain and water quality protection district bylaws, as per Sections C and D of this document, and they have been thoroughly reviewed by Mass DEP, Natural Heritage, and the Conservation Commissions. The Board has no other concerns at this time. Impacts of the affordable housing development were reviewed and permitted by the Zoning Board of Appeals. Impacts the northern portion of the site are not yet known, and will be reviewed by the Selectboard and/or Planning Board at a later date when zoning approvals are sought for that use.

Criterion 6. The proposed remediation and redevelopment will remediate a contaminated site and provide open space, affordable housing, and tax revenue to the Town, all in accordance with the goals of the Town's 2013 Master Plan.

Finding:

In consideration of the above Findings, this Selectboard finds that the benefits of the proposal outweigh possible detrimental impacts.

F. Proposed Condition

1. This floodplain and water quality special permit approval is intended to permit the remediation of the entire site, the development of the affordable housing portion of the site, the implementation of stormwater and flood storage measures as proposed, and a maximum development and impervious surface footprint for the northern portion of the site, but it shall not be construed as an approval of any specific use for northern portion of the site.

In answer to a question from Dan Bailly, Mr. Geller said work will be monitored by a licensed professional and soil will be tested by DEP's Solid Waste division when work is completed.

Mr. Abrahams moved to close the hearing, Mr. Cooke seconded, all voted in favor.

Mr. Abrahams moved to approve the findings as amended, Mr. Cooke seconded and the vote was Ms. Davis, aye; Mr. Cooke, aye, Mr. Abrahams, aye; Mr. Bannon, aye, Ms. Burke aye.

**9. More Old Business**

Town Manager Pruhenski presented an executive summary on options for **Housatonic School**. He recommended the board discontinue its agreement with Grayhouse Partners. Mr. Abrahams moved to accept the recommendation, Mr. Cooke seconded.

Mr. Pruhenski suggested modifying the existing Request for Proposals.

Ms. Davis said she would like to see a complete rewrite, adding the Community Center and Cook's Garage to the mix to see what ideas a developer might have.

With the scenario of ending the agreement, holding a village input session and creating a new RFP, the board voted all in favor.

Members of the public, however, asked to be heard. Richard Root of Pearl Street said taxpayers would like a lot of information ahead of any village meeting, such as how much has been spent to maintain the building in the last 10 years. He said the town should stop maintaining the building.

James Bailly of Housatonic said Ms. Davis's suggestion was unacceptable, as Housatonic needs the center.

Ms. Davis said she agreed the center is important, but by including more properties, there might emerge a creative idea whereby a new community center might be built. She said a way may be found to bring gas and broadband to the village.

Diego Gutierrez of Housatonic said that would be a good approach, and pointed out the community center at present is closed most of the time.

Dan Bailly said the RFP needs to be completely rewritten, and said there are problems with Cooks' Garage. The center and the park need to be left alone.

Steve Farina of Railroad Street said Grayhouse Partners spent two years in good-faith effort and should be given another six months.

Continuing discussion of **Selectboard Policies and Procedures**, Mr. Abrahams moved to accept changes in the document as indicated in red, Mr. Cooke seconded, all voted in favor.

## 10. New Business

At Mr. Pruhenski's recommendation, the board appointed **KP Law** general counsel and **Valerio Dominello LLC** labor counsel. The motion as made by Mr. Abrahams, seconded by Mr. Cooke, and voted by all.

The board on motion made by Mr. Abrahams, seconded by Mr. Cooke, and voted unanimously, appointed Rees Shad to the Great Barrington **Design Advisory Committee**.

The board on motion made by Mr. Abrahams, seconded by Mr. Cooke, and voted unanimously, reappointed Fred Clark of Housatonic to the **Affordable Housing Trust**.

The board agreed to hold Grove/Cottage Street and Housatonic **neighborhood meetings** at St. Peter's Center and at the Housydome, Sept. 10 and 16, 7 p.m., the order to be determined.

Regarding **Lake Mansfield Road**, Sean VanDeusen, DPW Superintendent, recommended spending \$30,000 to \$50,000 to repave the road to stop erosion. He said even if the road is closed, it will still need to exist for emergency vehicles. He said he would use Chapter 90 funds.

Mr. Farina from the audience urged the board to reconsider its vote to close the road, as many residents in the Christian Hill area are affected.

Mr. Abrahams said that, despite Mr. Farina's comments, the Task Force began work on its recommendation two years ago and it became time to take action.

Mr. Abrahams moved to accept the recommendation of the DPW Superintendent, Ms. Davis seconded. Ms. Burke said she would like to hear from the Task Force, which meets at the end of the month. In the vote, Mr. Abrahams, Ms. Davis and Mr. Bannon were in favor, Mr. Cooke and Ms. Burke were opposed.

The board referred to the Design Advisory Committee a request to select a color to repaint the **Brown Bridge** when Mass. DOT remedial work is undertaken next year.

The proposed Senate Bill 101 and House companion legislation regarding Sterling Suffolk initiative to return **horse racing** to the Great Barrington Fairgrounds prompted considerable discussion.

Sterling Suffolk has a lease arrangement with the fairgrounds owners. It plans to hold up to 40 meets in September and October — beginning next year, if legislation and town permits allow, and spend up to \$20 million in track, grandstand and grounds improvements. The half-mile track may be expanded to three-quarters of a mile. The move is subject to a commercial entertainment permit, a floodplain protection permit and possibly a water quality protection



permit. The fairgrounds at present is non-profit and is taxed only for the solar field. The new tract venture would be taxed. It is a commercial activity, not a revival of an agricultural fair.

Ms. Davis said the Senate version of the legislation, still in committee, removes the town's ability to hold a public referendum. She urged the board to immediately write and email legislators and the committee chair to ask the committee hold up the bill until Great Barrington has an opportunity to conduct a local forum.

Mr. Bannon said he would like to direct the Town Manager to talk with Senator Adam Hinds and Rep. Smitty Pignatelli and invite the Sterling Suffolk representative here so the board can learn more. Mr. Bannon said Chip Tuttle, Sterling Suffolk Racecourse LLC chief operating officer, has already been in Great Barrington.

From the audience, Diego Gutierrez said that if the racing moves forward without opportunity for a town wide referendum, it would be inviting the wolf into the chicken house. The racing, he said, would have a huge impact. He said Suffolk Downs racked up \$5 million in environmental fines in Boston. He said Sterling Suffolk wants off-track gambling.

Mr. Bannon said the town is not giving up rights, as permits will be needed.

Planning Board Chair Brandi Nelson said her business works for Sterling Suffolk and she will recuse herself from any Planning Board involvement, but that Sterling Suffolk knows it needs local permits.

Steve Farina said there should be a public referendum.

Ms. Davis said there is urgency in taking action, as the bill could be voted out of committee by the end of the month, once a budget is finalized.

Nan Wile said the request for delay should be made.

Richard Ruth agreed.

After more discussion, Ms. Burke moved the board ask the town manager to look into whether the legislation removes the town referendum option and, if so, to write the legislative committee and ask Mr. Hinds and Mr. Pignatelli to work to keep the referendum requirement. Mr. Cooke seconded.

Mr. Bannon said the board should have further information before it acts.

Ms. Davis asked why a public hearing was held in Boston and the Selectboard was not told, and did not send representation?

Mr. Bannon and Mr. Abrahams said they were aware a hearing was going to be held but were not told when.

In a vote, Ms. Burke, Mr. Cooke and Mr. Bannon favored the motion, Ms. Davis and Mr. Abrahams did not.

Ms. Davis moved that the Selectboard write a letter to the legislative committee asking to hold the bill.

There was no second.

## **11. Citizen Speak**

Mr. Farina urged the board to learn more from the public about the Lake Mansfield Road closure.

Mr. Root complained that the traffic light at Main and Cottage slows his travel. Mr. VanDeusen said the light is on a sensor so anyone turning around at Cottage Street can safely go south.

Ms. Loubert complained about what she saw as lack of enforcement of special permit conditions.

Mr. Abrahams made a general statement that the Selectboard hears both sides of issues, and even if, as Mr. Farina suggested, someone shows up with a 1,000-signature petition. it does not mean it dictates a board's decision. Regarding more intense permit enforcement, he said it would necessitate hiring another person in the Building Inspector's office — and raise taxes.

## **12. Adjournment**

Mr. Abrahams moved to adjourn the meeting, Mr. Cooke seconded, all were in favor. It was 8:56 p.m.

Respectfully submitted,



Bernard A. Drew  
Recording Secretary