

Mark Pruhenski
Town Manager

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www.townofgb.org



Town Hall, 334 Main Street
Great Barrington, MA 01230

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TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN MANAGER

Revised

SELECTBOARD'S MEETING AGENDA

MONDAY, MARCH 23, 2020

6:00 PM – REGULAR SESSION

TOWN HALL, 334 MAIN STREET

ORDER OF AGENDA

This meeting will be conducted via teleconference. To participate **Dial-in number (US): (425) 436-6397 Access code: 885285#**

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Great Barrington Selectboard will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on town's website, at www.townofgb.org. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner: See instructions at the top of the agenda. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the town's website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

6:00 PM - OPEN MEETING

1. CALL TO ORDER:

2. ROLL CALL VOTE:

3. PUBLIC HEARINGS:

- A. **Continuation** - Request to Continue to **April 13, 2020** the Special Permit Application of School Street Parking, LLC, c/o Phillips International Holding Corp., 5 Cheshire Road, Pittsfield, to construct and operate a commercial parking lot in a B-3 zone, and for work within the Water Quality Protection Overlay District, at 11 School Street, Great Barrington, MA. (Discussion/Vote)
 - a. Motion to Continue
 - b. Roll Call Vote

- B. Application of TangierGB LLC, Toni Bergins, Manager to Change the License Classification from the Common Victualler Wine and Malt Restaurant Liquor License to the Common Victualler All Alcoholic Restaurant Liquor License at 284 Main Street. (Discussion/Vote)
- a. Open Public Hearing
 - b. Explanation of Project
 - c. Speak in Favor/Opposition
 - d. Motion to Close Public Hearing
 - e. Motion re: Findings
 - f. Motion re: Approval/Denial/Table

4. LICENSES OR PERMITS:

- A. SB – Approval of Wyantenuck Country Club 2020 Seasonal Renewal of All Alcoholic Club Liquor License. (Discussion/Vote)

5. NEW BUSINESS:

- A. SB – Open Meeting Law Complaint from Susan Jennings. (Discussion/Vote)
- B. SB – Authorize the Town Moderator to Delay the May Annual Town Meeting. (Discussion/Vote)
- C. SB - To Change the Time of the Selectboard 2020 Regular Meetings. (Discussion/Vote)
- D. SB – Temporary Procedures for Signing Vendor and Payroll Warrants. (Discussion/Vote)
- E. SB – Declaration of Local State of Emergency. (Discussion/Vote)


6. CITIZEN SPEAK TIME:

Citizen Speak Time is simply an opportunity for the Selectboard to listen to residents. Topics of particular concern or importance may be placed on a future agenda for discussion. This time is reserved for town residents only unless otherwise permitted by the chair, and speakers are limited to 3 minutes each.

7. SELECTBOARD'S TIME:

8. MEDIA TIME:

9. ADJOURNMENT:



Mark Prunenski, Town Manager

Pursuant to MGL. 7c. 30A sec. 20 (f), after notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium. At the beginning of the meeting, the chair shall inform other attendees of any such recordings. Any member of the public wishing to speak at the meeting must receive permission of the chair. The listings of agenda items are those reasonably anticipated by the chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

TOWN OF GREAT BARRINGTON

NOTICE OF PUBLIC HEARING

The Great Barrington Selectboard will hold a public hearing on Monday, January 13, 2020 at 5:30 pm at the Claire Teague Senior Center, 917 Main Street, Great Barrington, MA, to act on the Special Permit application from School Street Parking, LLC, c/o Phillips International Holding Corp., 5 Cheshire Road, Pittsfield, to construct and operate a commercial parking lot in a B-3 zone, and for work within the Water Quality Protection Overlay District, at 11 School Street, Great Barrington. The application is filed in accordance with Sections 3.1.4 C(19), 9.2, and 10.4 of the Zoning Bylaw. A copy of the application is on file with the Town Clerk.

Stephen Bannon, Chair

* Continued to February 10, 2020

* Continued to February 24, 2020

* Continued to March 23, 2020

* **Applicant requests continuance to April 13, 2020**

Helen Kuziemko

From: Chris Rembold
Sent: Wednesday, March 18, 2020 12:51 PM
To: Helen Kuziemko; Mark Pruhenski
Subject: 11 School Street

Applicant has requested a continuance. See below.



Christopher Rembold, AICP

Assistant Town Manager
Director of Planning and
Community Development
413-528-1619 ext. 108
crembold@townofgb.org

Town of Great Barrington
334 Main Street
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

From: Matt Puntin <MPuntin@sk-designgroup.com>
Sent: Wednesday, March 18, 2020 12:46 PM
To: Chris Rembold <crembold@Townofgb.org>
Cc: Dennis Egan <DEgan@cohenkinne.com>; Glenn <glenn@pihc.com>
Subject: RE: PI Bd Agenda

Chris,

We agree to continue the hearing for the select board until April 13th. I believe that is their first date in April. Additionally, I'd like to do the same for Planning Board. I think the following meeting would be April 23. Please confirm these dates.

Thank you,

Matthew D. Puntin, P.E.

Senior Engineer

SK Design Group, Inc.

2 Federico Drive

Pittsfield, MA 01201

413.443.3537 x105

www.sk-designgroup.com

TOWN OF GREAT BARRINGTON

NOTICE OF PUBLIC HEARING

The Selectboard will hold a public hearing on Monday, March 23, 2020 at 7:00 PM at the Town Hall, 334 Main Street, Great Barrington, MA 01230 to act on the application of TangierGB LLC, Toni Bergins, Manager to change the License Classification from the Common Victualler Wine and Malt Restaurant Liquor License to the Common Victualler All Alcoholic Restaurant Liquor License at 284 Main Street, Great Barrington, MA 01230.

Stephen Bannon
Chair

PLEASE PUBLISH March 13 and March 20, 2020.



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
 www.mass.gov/abcc

APPLICATION FOR AMENDMENT-Change of License Classification

Change of Category

(e.g. All Alcohol, Wines and Malt)

- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Change of Category Application
- Vote of the Entity
- Abutter's Notification*
- Advertisement*
- Payment Receipt

Change of Class

(e.g. Seasonal /Annual)

- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Change of Classification Application
- Vote of the Entity
- Abutter's Notification*
- Advertisement*
- Payment Receipt

Change of License Type

(\$12 ONLY, e.g. general on premises, tavern, inn, restaurant)

- Change of License Type Application
- Vote of the Entity
- Advertisement*
- Payment Receipt

*If abutter notification and advertisement are required for transaction, please see the local licensing authority.

1. BUSINESS ENTITY INFORMATION

Entity Name	Municipality	ABCC License Number
TangierGB LLC	Great Barrington	03045-RS-0464

Please provide a narrative overview of the transaction(s) being applied for. Attach additional pages, if necessary.

Change from Wine & Malt Beverages to All Alcohol Beverages

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name	Title	Email	Phone
Charles J Ferris	Attorney	charles.ferris@verizon.net	413 528-8900

2. LICENSE CLASSIFICATION INFORMATION

2a. Change of License Category	Last-Approved License Category	Wines and Malt Beverages
All Alcohol, Wine and Malt, Wine Malt and Cordials	Requested New License Category	All Alcoholic Beverages
2b. Change of License Class	Last-Approved License Class	Annual
Seasonal or Annual	Requested New License Class	Annual
2c. Change of License Type*	Last-Approved License Type	\$12 Restaurant
E.g. Restaurant to Club *Certain License Types CANNOT change once issued*	Requested New License Type	\$12 Restaurant

CORPORATE VOTE

The Board of Directors or LLC Managers of Entity Name

duly voted to apply to the Licensing Authority of and the
City/Town
Commonwealth of Massachusetts Alcoholic Beverages Control Commission on
Date of Meeting

For the following transactions (Check all that apply):

- Change of Class (i.e. Annual / Seasonal)
- Change of License Type (i.e. club / restaurant)
- Change of Category (i.e. All Alcohol/Wine, Malt)
- Other

"VOTED: To authorize Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

A true copy attest,


Corporate Officer / LLC Manager Signature

Angel Espinoza-Jimenez
(Print Name)

For Corporations ONLY

A true copy attest,

Corporation Clerk's Signature

(Print Name)



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Susan Last Name: Jennings

Address: 6 High Street

City: Great Barrington State: MA Zip Code: 01230

Phone Number: 646 567 9681 Ext. _____

Email: suznjennings@gmail.com

Organization or Media Affiliation (if any): _____

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Great Barrington Selectboard

Specific person(s), if any, you allege committed the violation: All members of the selectboard except any recused

Date of alleged violation: Feb 1-10, '20*

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

I believe that the Great Barrington select board committed one, and possibly two, open meeting law violations related to entering, and then deliberating over and voting on, mediation over litigation with General Electric (GE) and the Environmental Protection Agency (EPA) about GE's mandated cleanup of the Housatonic River. The selectboard, along with the selectboards in four other towns in southern Berkshire County, signed a binding settlement agreement which has enormous impact on public health, the local economy, quality of life, the safety of our water, and our common natural resources without any open meeting transparency during their vote. The community was blindsided by it's announcement and is in great distress, as many are not in agreement that the settlement's terms are acceptable. The towns accepted between 1.5 million-25 million dollars in payouts each from GE and accepted creation of a local toxic waste dump despite years of clear public resistance to such a dump. Many in the community are concerned about what pressures the selectboards were put under by GE's and EPA's lawyers to have so violated the trust of their constituents. Further, many are concerned that the current federal political climate, with it's pro-corporate allegiance, having weakened the EPA and instructed them to seek such settlements nationwide, is now reaching into the level of local government and that even amongst our select board, fear of corporate power is causing erosion of democracy. This feels like a frightening precedent to set. Even if this does not directly violate some specific letter of the law, an entire community is reeling from the sense of violation of the spirit of the law. I have not found where in open minutes they were transparent about their intentions for entering

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

I want the selectboard to withdraw their consent to the settlement, and for the public to be properly and legally involved, and our will considered, in decisions about the fate of our river and the course of action in moving forward with a cleanup. I want them to release the executive session minutes of the sessions in which they deliberated and voted about this issue. It is also my hope that an investigation will occur into what pressures GE, EPA, or their lawyers put on the other parties to the mediation to acheive their assent.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

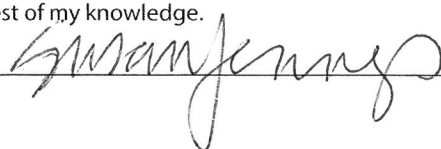
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____



Date: _____

3/9/20

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20th Floor, Boston, MA 02108. Emails may be sent to: openmeeting@state.ma.us.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at openmeeting@state.ma.us.

STEPHEN C. BANNON
CHAIR

EDWARD ABRAHAMS
WILLIAM COOKE
KATE BURKE
LEIGH DAVIS



Town Hall, 334 Main Street
Great Barrington, MA 01230

(413) 528-1619 x2
Fax: (413) 528-2290
www.townofgb.org

TOWN OF GREAT BARRINGTON MASSACHUSETTS

SELECTBOARD

March 23, 2020

Susan Jennings
6 High Street
Great Barrington, MA 01230

RE: Open Meeting Law Complaint of March 9, 2020

Dear Ms. Jennings:

The Town is in receipt of your Open Meeting Law (OML) complaint. In summary, your complaint alleges the following:

1. The "Town of Great Barrington Selectboard" violated the Open Meeting Law (OML) by "...deliberating over and voting on mediation over litigation with General Electric (GE) and the Environmental Protection Agency (EPA) about GE's mandated cleanup of the Housatonic River", and the specific person(s) you allege committed the violations are, "all members of the Selectboard except any recused," with a date of the violations listed as "Feb. 1-10, 2020". The action you are requesting is as follows: "I want the settlement to be nullified, and for the public to be properly and legally involved, and our will considered, in decisions about the fate of our river and the course of action in moving forward with a cleanup". I want executive session minutes for meetings related to this issue to be released. It is also my hope that an investigation will occur into what pressures GE, EPA, or their lawyers put on other parties to the mediation to achieve their assent".

In response to these claims, we submit the following factual information:

1. The Selectboard appointed staff members to represent the town on the "Housatonic Rest of River Municipal Committee" (the RoR Committee) under the authority granted to them in M.G.L. c. 40, §2. All meetings were properly posted by the RoR Committee and were held in executive session as permitted within the OML for litigation.
2. The Selectboard met in properly posted executive session meetings to consider the issues and proposed settlement of litigation.

3. The Selectboard has been advised by counsel, that they have the authority to settle legal matters related to the “Rest of River” agreement and that Town Meeting has no statutory authority to rescind the settlement agreement. Any vote of Town Meeting would be non-binding and strictly advisory.
4. The executive session minutes, on the advice of Town Counsel, will not be released at this time. This matter is not yet closed and may be subject to further litigation. The minutes will be released when and if it is determined that their release is appropriate and will not jeopardize the Town’s position.

In conclusion, we do not believe that the alleged OML violations have merit.

The Selectboard continues to obey and respect the Open Meeting Law and we hope this response clears up any concerns you may have.

Sincerely,

Stephen Bannon, Chairman

cc: Office of the Massachusetts Attorney General

Selectboard's 2020 Regular Meeting Schedule

January 13	Second Monday
January 27	Fourth Monday
February 10	Second Monday
February 24	Fourth Monday
March 9	Second Monday
March 23	Fourth Monday
April 13	Second Monday
April 27	Fourth Monday
May 4	Annual Town Meeting
May 13	Second Wednesday
May 18	Third Monday
June 8	Second Monday
June 22	Fourth Monday
July 13	Second Monday
July 27	Fourth Monday
August 10	Second Monday
August 24	Fourth Monday
September 14	Second Monday
September 21	Third Monday
October 5	First Monday
October 26	Fourth Monday
November 9	Second Monday
November 23	Fourth Monday
December 7	First Monday
December 21	Third Monday