1. CALL TO ORDER SELECTBOARD REGULAR MEETING - Chairman Bannon opened the meeting at 6:00pm with Selectboard members: Ed Abrahams, Steve Bannon, Leigh Davis, Eric Gabriel, Garfield Reed present. Also present: Town Manager Mark Pruhenski, Assistant Town Manager Chris Rembold.

2. APPROVAL OF MINUTES
   a. March 6, 2023
   b. March 13, 2023
   L. Davis made a motion to approve the minutes of March 6 and March 13, 2023; E. Abrahams seconded. S. Bannon asked for any discussion – there was none. All in favor: 5-0.

3. SELECTBOARD’S ANNOUNCEMENTS/STATEMENTS
   a. L. Davis stated April 22 is Earth Day and there will be a Town-wide clean-up. Information is on the Town website and bags are available now.

4. TOWN MANAGER’S REPORT
   a. Board of Directors of the South Berkshire Veterans Service – Tom Gage, Chair Veterans Services, stated it is a 12 town service and asked that a new Great Barrington representative be appointed.
   L. Davis made a motion to elect James Bailly to the board of directors; E. Abrahams seconded. S. Bannon asked for any discussion – there was none. All in favor: 5-0.
   b. Housatonic Water Works – M. Pruhenski stated the Selectboard will be meeting with Town Counsel in executive session following this meeting.
   c. Library Construction Grant – M. Pruhenski stated the Town has decided not to pursue the MA Board of Library Commissioners grant as The Town is not well positioned to apply at this time, but would consider it again in 5 years. He added that at the Ramsdell Library critical repairs are being done to improve accessibility and repair the boiler, roof and electrical.
   d. Housatonic School Update – M. Pruhenski reported the purchase and sale agreement has been shared with the developer and negotiations are in progress. He noted the developer is moving forward on plans, financing, utilities and preparing for permitting. He added that transfer of ownership will occur before construction starts.

5. LICENSES AND PERMITS
   a. Frank Sowalsky for Carr Hardware’s request for a one day Wine and Malt License for their Contractor Appreciation Day on April 12, 2023 from 4PM to 7:30 PM
      i. S. Bannon stated this request has been withdrawn.

6. PUBLIC HEARINGS
   a. Continued from April 3, 2023: Special Permit application from Berkshire Aviation Enterprises, Inc., 70 Egremont Plain Road, Great Barrington, to permit the airport in an R4 zone, in accordance with Sections 3.1.4 E(1), 7.2 and 10.4 of the Zoning Bylaw.
      i. Selectboard review and discuss draft findings
         • E. Abrahams made a correction to a map that was submitted in the package.
• C. Rembold reviewed the general aspects of the Special Permit and stated the findings statement includes Selectboard edits/additions and Town counsel comments. Selectboard members had no comments and agreed on the introduction section.

• C. Rembold presented the general findings – E. Abrahams asked to add – according to Town counsel, the Town’s ability to enforce these conditions is unclear. David Doneski, Town Counsel, replied that statement should not be included as it implies a limitation on the Selectboard’s authority. It was agreed regarding leaded airplane fuel to add is a source of air pollution. The Selectboard had no comments on section C and D. C. Rembold highlighted additions regarding specifics on the Town’s Master Plan and the fuel tank alarm system.

• Regarding conditions, C. Rembold highlighted edits/additions including a detailed description of Airport current uses and restrictions on new uses and required reporting on the number of airplanes on site. Regarding Memorial-Labor Day restrictions, the Selectboard agreed to change timing restricting continuous take-offs/landings to before 8:00am and after 5:00pm and changing Independence Day to July 4. The Selectboard also agreed to add there should not be unnecessary run-ups after 6:00pm. Regarding prohibition of gliders and jets/turbo jets, it was agreed to add except for emergencies. Regarding drones, the Selectboard agreed to replace permitted with as required by law. It was confirmed that there should be soil testing in six months and every five years thereafter. Regarding fuel tank spills, the applicant clarified that Airport personnel will be alerted and, per protocol, they will notify the fire department and state agencies, if required. Regarding other kinds of spills, it was confirmed that the clean up follows the same protocol. C. Rembold covered additions/edits to pilot policy, flight operation reports, safety incident notification and annual hazardous material use reports.

• Dennis Egan, applicant’s attorney, stated the application and property deed is in the name of Berkshire Aviation Enterprises, Inc., but the name was changed officially to Berkshire Aviation Holdings, Inc. The Selectboard discussed implications of new ownership – D. Doneski stated the corporate entity and any successor person/corporate entity has a right to the Special Permit and is subject to the conditions. A condition was added to provide the Town with notice of any change in name.

• D. Doneski covered additional conditions regarding required recording of the Special Permit and providing annual reports on specific uses of the Airport including take-offs/landings, flight paths, toxic materials, etc. He clarified this is only informational for the Town to understand Airport operations/activities. D. Doneski covered an additional condition regarding reporting and the Town’s right to review any changes in reporting requirements or technology and another condition stating all conditions are essential to allow the Special Permit.

• E. Abrahams asked to consider stronger limits to help mitigate some negative impacts on neighbors – other Selectboard members did not agree.

• L. Davis asked about handling enforcement of the conditions and neighbor complaints – M. Pruhenski replied complaints would go to the Town Zoning Enforcement Officer.

ii. Close Public Hearing


iii. Selectboard discussion

• E. Abrahams read a statement outlining his concerns/objections to granting the Special Permit – his statement is attached.

iv. Vote on findings

v. Vote on special permit

L. Davis made a motion to grant the Special Permit with the conditions identified in the draft that was reviewed and to direct the Planning Director to provide the final document to the Selectboard incorporating all edits for the Selectboard’s signature; E. Abrahams seconded. S. Bannon asked for any discussion – there was none. Roll call vote: Ed Abrahams, “no,” Steve Bannon, “aye,” Leigh Davis, “aye,” Garfield Reed, “aye.” Motion passed: 4-1.

S. Bannon stated there are 73 virtual attendees and a full room at Town Hall.

7. NEW BUSINESS

a. SB vote to appoint an Alternate Member to the Agricultural Commission

L. Davis made a motion to appoint Ambrose Clausen as an alternate member to the Agricultural Commission; E. Abrahams seconded. S. Bannon asked for any discussion – there was none. All in favor: 5-0.

b. Finalize Annual Town Meeting Warrant – M. Pruhenski stated in the packet is the draft annual Town Meeting warrant which has been reviewed/approved by D. Doneski. He also stated regarding Article 19, it can be removed as the Town has received the full $250,000 from the state.

L. Davis made a motion to finalize the Town Meeting warrant omitting Article 19; E. Abrahams seconded. S. Bannon asked for any discussion – E. Gabriel asked about Article 27, Community Preservation Projects, and funding for Alander. C. Remold replied that was recently approved by the CPC and will be added – he confirmed it is a $250,000 appropriation under affordable housing for two units at the 322 Main Street project. C. Rembold updated the affordable housing total to $665,000 and grand total $1.170m for all nine projects.

i. The motion and second were withdrawn.

L. Davis made a motion to finalize the Town Meeting warrant as amended and omitting Article 19, temporary Housatonic Water Works relief; E. Abrahams seconded. S. Bannon asked for any discussion – there was none. All in favor: 5-0.

c. National Grid Pole Petition request to install a sole ownership pole on South Main Street beginning at a point approximately 165; feet north of the centerline of the intersection of South Reed Street and continuing approximately 50’ feet in a north direction. Install 1 utility pole within the right-of-way. New utility pole will provide electric service for proposed electric vehicle charging within Guido’s parking lot.

i. E. Gabriel recused.

ii. National Grid representatives stated they expected to review a different petition regarding Seekonk Road. S. Bannon stated as the Seekonk Road petition is not on the agenda it cannot be heard, but it was agreed to proceed on the Main Street request.

L. Davis made a motion to approve the Pole Petition as stated on the agenda; E. Abrahams seconded. S. Bannon asked for any discussion – there was none. All in favor: 4-0.

d. Electrical Aggregation- Authorize Town Manager to sign contract on behalf of SB for term beginning November 1, 2023 – M. Pruhenski stated GB is under a one-year contract for electrical aggregation to expire November 1. He noted multiple Berkshire County towns are banding together to increase purchasing power and secure a better rate – he noted the current available rate is $.22/kilowatt hour vs National Grid’s $.33 rate. M. Pruhenski asked the Selectboard to authorize him to sign the agreement on April 12 – as timing will be short. He noted the term of the agreement will be six months to three years. S. Bannon stated there is precedent for this process as it is similar for Berkshire Health’s Insurance. M. Pruhenski stated group electric rates look better than GB’s current rate, but the exact rate is not currently known.

L. Davis made a motion to authorize the Town Manager to sign the contract on behalf of the Selectboard for a term beginning November 1, 2023; E. Abrahams seconded. S. Bannon asked for any discussion – there was none. All in favor: 5-0.
8. CITIZEN SPEAK TIME
   a. Claudia Shapiro, 78 Egremont Plain Road, expressed concerns about approval of the Airport Special
      Permit and thanked E. Abrahams for his dissention.
   b. Nancy McConnell, 19 State Road, asked about C. Rembold’s sign-off on behalf of the Town on
      expenditures for Rest of River clean-up/disposal which is opposed by two local environmental groups
      and being appealed. E. Abrahams replied this cannot be discussed as it is not on the agenda. The
      process was discussed at a Selectboard executive session and C. Rembold was authorized to represent
      the Town. He noted the matter has not been considered since.
   c. Jim Bailly, stated he has been involved with the VFW and actively supportive of veterans - and is
      happy to serve on the Veterans Services board.
   d. Holly Hardman, Summer Street, expressed concerns about the effectiveness of the proposed
      Housatonic River PCB clean-up. She noted the town of Lee has rescinded the plan and asked GB to
      do the same. She also asked for alternatives means of remediation.

9. SELECTBOARD’S TIME – No members asked to speak.

10. MEDIA TIME – No media asked to speak.

11. CONVENE INTO EXECUTIVE SESSION (and will not return to open session)
   a. Executive Session under MGL Ch 30A, sec. 21(a) for the following purpose: (6) To consider the
      purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have
      a detrimental effect on the negotiating position of the public body.
      i. Motion: L. Davis made a motion that the Board meet in executive session pursuant to MGL
         Ch. 30A sec. 21(a) for the following purpose: (6) to consider the purchase, exchange, lease or
         value of real estate, regarding Housatonic Water Works, because an open discussion may have
         a detrimental effect on the negotiating position of the public body; E. Abrahams seconded.
           Gabriel, “aye,” Garfield Reed, “aye.” All in favor: 5-0.
   b. Executive Session under MGL ch 30A, sec. 21 (a) for the following purpose: (7) To comply with, or
      act under the authority of, any general or special law or federal grant-in-aid requirements.
      i. Motion: L. Davis made a motion that the Board meet in executive session pursuant to MGL
         Ch. 30A sec. 21 to approve executive session minutes from the following meeting: October 3,
         2022; E. Abrahams seconded.
           Gabriel, “aye,” Garfield Reed, “aye.” All in favor: 5-0.

S. Bannon stated the Selectboard will not return to open session.

12. ADJOURNMENT - Chairman Bannon adjourned the meeting by unanimous consent at 7:30pm.

Respectfully submitted,

Stacy Ostrow, Recording Clerk

Statement by Ed Abrahams:
An airport in a residential neighborhood is a delicate balance. We missed an opportunity to really listen to
various opinions and try to reach a compromise. Here are my reasons why we can’t approve this permit:
1. The applicant has stated that this decision is about having an airport vs. not having an airport, that if the town loses in court it turns the clock back to 1932. That isn’t correct. We are not deciding if there should or shouldn’t be an airport in that location. We are deciding if the benefits of granting a permit outweigh the detriments.

- The airport is pre-existing, non-conforming so it can continue to be an airport with or without this permit.
- Everything that every speaker said they liked about the airport can continue with or without this permit.
- What can’t continue without the permit is increasing the nonconformity.
- If we lose in court, we can still permit specific expansions of nonconforming use and buildings. If court says no medivac, we can permit that. Without a permit, the Town controls growth. With it, we are at the mercy of the courts upholding our issuing of conditions normally reserved for FAA and DOT. We saw the applicant install an underground gas tank on top of our water supply despite the fact that our zoning doesn’t allow underground tanks in the WQPOD.
- They were allowed to do that because it was the same size as the existing underground tank, not because it is a good idea to have underground tanks over an aquifer.
- The Town should retain control over decisions about growth and change.

2. Too many of our conditions are potentially unenforceable.

- According to our attorney, we may not be able to, and according to DOT we can’t, enforce any conditions about # of flight operations, type of aircraft, or the hours of operation. Even if these conditions are enforceable, the town doesn’t have the staff or resources to enforce them. If any condition becomes unenforceable, we don’t know that we can revoke the permit. If it is this board’s opinion that the conditions are necessary to make the benefits outweigh the detriments, And, if we can’t be sure that we can enforce all the conditions, And, if we can’t be sure that we can revoke the permit if conditions are voided, how do we say the benefits still outweigh the detriments?

3. The major complaint is noise and we have done very little to address it. No information was provided by the applicant about how loud it is, nor how an increase in noise will be mitigated, and the applicant has stated that they are unable to enforce the noise mitigating flight paths. Some conditions will help (if we can enforce them), but not nearly enough. Our conditions only offer minor adjustments to the hours that noise will be a nuisance.

- We are allowing continuous takeoffs and landings from 9-5 on Sundays.
- Otherwise we are allowing them starting any time at all, including Christmas, Thanksgiving, and every other holiday except two.
- We have set no limits on the number of annual flight operations or the amount of private helicopter activity.

4. We can’t meet zoning bylaw 7.2.1.1 *It shall be so located that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic or other objectionable condition.* We have been asked to overrule Town Meeting and to rewrite 7.2.1. (which was approved by the AG) so that it says “more objectionable.”

- Even if we had the authority to do that, the applicant doesn’t know the current or recent air traffic volume so can’t say if it is increasing or decreasing, and didn’t offer any evidence of either.
- Abutters and others not living near the airport reported it has gotten busier in recent years.
- DOT in 2020 said they expected a slight increase in air traffic. How do we say it won’t be more objectionable in the future if we don’t know how busy it is or how busy it is likely to get? How do we say it won’t be more objectionable in the future if we don’t know how many aircraft are there, how many flights, or how many students are doing continuous takeoffs and landings. How do we say it won’t be more objectionable in the future if we don’t know and can’t place secure limits on, operating hours, number of planes housed, types of aircraft, number or frequency of operations now, how much busier it has or hasn’t gotten in recent years, and how busy it is likely to become in the future, How can we possibly ensure 7.2.1 given ANY interpretation? In 2020 we denied 7.2.1 because even a little increase
in use would make the airport more objectionable to neighbors. It has gotten busier since then. Unless the Applicant is offering evidence that the use, noise, traffic, etc won’t grow, how do we grant this permit? They didn’t provide any evidence that it won’t get more objectionable.

5. We are being told that WQPOD doesn’t apply, but the risks of toxic substances above our water supply is still an issue that we can and should consider with respect to the other relevant zoning by laws. The 2003 SWAP report says the airport is the biggest threat to the water supply. That's a huge negative. Other than “we’ll keep doing what we’ve been doing,” the applicant hasn’t told us how they will keep our water safe. If we give this permit, we do so:

- Without knowing if there is sufficient liability insurance in case of a disaster,
- Without knowing if there are proper protocols in place for water protection or if the Town has the ability to police those protocols,
- Without knowing what hazardous materials are being used or whether any of them are included on the State’s list of 600 or so prohibited substances,
- Without knowing how much hazardous waste is stored and disposed of each month,
- Without taking into account the environmental concerns, not just water, but air and noise pollution and fossil fuel use which will only get worse with growth.

6. The application was incomplete: We weren’t told and we don’t know: Existing land uses (how much and where is the Chapter 61A land) Location of wells within 400 ft of the lot line Complete list of Hazardous Materials including storage and disposal method. Correct description of Open Space If we approve this permit, we are doing so not really knowing how much open space we are talking about.

7. No numbers were provided to back up the claim of positive economic impact.

- How many visitors to GB are staying for how many days, spending how much money? Even if there is currently a positive economic impact, If the airport doesn’t get substantially busier with this permit than it is now, how will awarding this permit increase the positive economic impact?

Finally, what has changed since 2020?
From 2020 findings: “With the exception of the proposed hangar buildings, the Applicant does not propose to alter the character of the site, nor does it seek to substantially expand the airport use or operations.” From 2023 Application: Other than the hangars: “To be clear, this application contemplates the continued existence of the airport as currently constituted - the applicant does not propose any new construction or other expansion of the current nonconforming use. In our 2020 decision denying a special permit, we found that “the benefits of the proposal do not outweigh the potential detriments.” I won’t list all the detriments, but the vast majority of them had nothing to do with the hangars.

For all of these reasons, it is clear that we cannot grant this permit.