

## Select Board Minutes

**Tuesday, December 1, 2020 7:00pm**

The Select Board Regular Meeting was held virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A. S.20.

Select Board participants: Chair Alice von Loesecke, Rich Maiore, Kara Minar, Stu Sklar, Lucy Wallace was late to enter the meeting.

Town Department attendees: Town Administrator Tim Bragan, Assistant Town Administrator/HR Director Marie Sobalvarro and Executive Assistant Julie Doucet, DPW Director Tim Kilhart

Additional participants: Carlson Orchards owner Frank Carlson, National Grid Rep. Javier Morales, Jim Burns, Harvard Devens Jurisdiction Committee Chair Victor Normand

### **Carlson Orchards Farmer Series Pouring Permit License Renewal Hearing**

Alice von Loesecke explained this hearing is being held in accordance with the conditions decided upon for the newly issued farmer series pouring permit. She invited members of the public to speak.

Direct abutting neighbors Stephanie O'Keefe, 90 Oak Hill Rd and Kerri Green, 102 Oak Hill Rd spoke and submitted written statements (Attachment A). The main focus of their concerns was due to heavy traffic, parking issues and trespassing. The increase in patrons to Carlson Orchards over the past pick your own season was challenging for those direct abutters. They insisted the town work with Carlson Orchards to develop a plan that will not impact their quality of life or business operations in the future.

Don Green, 80 Oak Hill Rd, said Westward Orchards has been farming over 100 years in Harvard and has always been very generous to the town donating land for open space. Over the years they have protected over acres and even recently worked with the Harvard Conservation Trust to secure another parcel. Green said his family values maintaining the open rural character of Harvard. He said what happened this fall was not farming.

Beth Williams, Granite View Lane, has visited Carlson Orchards frequently. She witnessed staff handling parking operations in a professional manner. Williams believes much of the influx of people into town was for the apple picking and not an issue with the cider barn especially during the Covid pandemic. She never saw any overcrowding in the barn itself and felt distancing met current regulations. She views this as two separate issues being mixed together.

Von Loesecke closed the hearing. She opened the discussion to the board members. Von Loesecke noted due to the Covid 19 pandemic this year, we all have faced a series of unique challenges forcing everyone to manage their lives and businesses in a different way. She reminded everyone this hearing is specific to the pouring license.

Von Loesecke read into the record an email from Police Chief Ed Denmark that stated: His department received complaints from residents who live in the area during peak apple picking time. Carlson's requested police details and no parking signs to attempt to mitigate some of the alleged problems. By all accounts of the officers who worked details or responded to calls in the area, there were no immediate public safety threats witnessed. The only problem was simply that of a large volume of vehicles present causing congestion in the roadway as people attempted to figure out where to go and drivers turning around in private driveways. I can imagine that the large influx of traffic to the area creates a nuisance to

residents during peak season; however, I cannot pinpoint any specific threats to public safety or violations of the conditions of the pouring license at this time.

Stu Sklar agreed with von Loesecke as did the other board members about this being a very challenging year for all and tough to assess operations at the farm with the granting of this new license. Kara Minar was upset to hear of what happened on abutter's properties and the fact that people would trespass. Rich Maiore was adamant the board and Carlson's should develop a traffic/parking mediation plan to make certain the issue experienced by abutters does not happen again. The board members were in agreement it was likely more the picking season that caused the influx of visitors and not so much the cider barn itself. Another topic that came up was the allowable occupancy on the premise. The license granted allows more than the Board of Health does do to flow capacity. The board members requested more information on this to align their approvals with all town regulations.

By a roll call vote, Maiore – aye, Sklar – aye, Minar – aye, von Loesecke – aye, the board voted unanimously to approve the license as submitted with an understanding to revisit parking in May of 2021 and Board of Health capacity for the property.

#### **Finalize National Grid pole petition request for Pond Road/Mass Ave**

Town Administrator Tim Bragan reported this pole hearing was continued from June. He met with board member Kara Minar, Bromfield Trustee Pete Jackson, DPW Director Tim Kilhart and Historic Commission member Manny Lindo to finalize the pole locations. National Grid representative Javier Morales confirmed the locations were mutually agreed upon. By a roll call vote, Sklar – aye, Minar – aye, Maiore – aye, von Loesecke – aye, the board voted unanimously to approve two poles one on Pond Rd and one on Mass Ave to accommodate the new driveway for the school.

#### **Minutes**

By a roll call vote, Minar – aye, Sklar – aye, Maiore – aye, von Loesecke – aye, the board voted unanimously to approve minutes of 11/17, as presented.

#### **Building Department permit fee review**

Tim Bragan and Assistant Town Administrator Marie Sobalvarro with input from the Building Inspector Jeff Hayes proposed some revisions to the building permit fees. The board previously reviewed the gas, plumbing and electrical permit schedules. The board was agreeable to the proposed adjustments.

#### **Discuss wiring and gas/plumbing inspector compensation**

Compensation data was gathered from other comparable communities. Bragan explained communities either pay their part time inspectors a percentage of the fees, an hourly rate or with a stipend. Currently, the inspectors are paid a percentage of the fees. Sobalvarro used a two-year average with an additional 10% as a proposal amount for an annual stipend. She noted the past year compensation was higher due to the school building project. Minar wondered how adversely this may affect the inspectors on a year when permits are high. Could this deter our long-term inspectors from continuing? Bragan has not yet spoken to the inspectors but plans to and is willing to recraft the proposal if need be.

By a roll call vote, Minar – aye, Sklar – aye, Maiore – aye, von Loesecke – aye, the board voted unanimously to approve fees as presented and a stipend structure pursuant to HR Director proposal.

## **Town Administrator Report**

Bragan reported on the following items:

- Budgets were received from departments today and hard copies are available to those who requested one and can be picked up at the office any time before 12 noon tomorrow and Thursday. Electronic copies will also be made available. Any budget questions will be due by December 31, 2020 at 12noon Questions can be submitted before the 31<sup>st</sup> and that would be appreciated.
- We do not have any new rates from MNHG yet (they will be out in February) but we did learn that Lincoln-Sudbury (the largest entity in MNHG) has opted to withdraw from the group and notified MNHG prior to the December 1<sup>st</sup> deadline.
- The number of Covid-19 cases among Town personnel is increasing which is not surprising since the numbers in the general public continue to climb. Daily numbers in Massachusetts are at a level of 2,500+ per day (pre-Thanksgiving). Given this trend I will be moving Town offices back to "By Appointment Only" as of the 14<sup>th</sup> or sooner should the situation warrant it. This is a move to protect everyone. The delay to the 14<sup>th</sup> is so that the public can be notified in advance and can make any necessary adjustments.
- The House and Senate passed their budgets with the Senate being the more recent (see attachment). No final budget as of today.
- We received 13 applications for the Finance Director Position and final interviews are being scheduled for this week. We hope to have an individual to the SB to be appointed on the 15<sup>th</sup> if all goes well.
- On December 15, 2020 the board will have before them license renewals for 2021.
- Town Report notice went out two weeks ago and Julie has set Monday, January 25, 2021 as the deadline for getting reports to her.

## **Community Resiliency Committee report**

Community & Economic Development Director Chris Ryan explained this group was formed to move priorities forward established by the Municipal Vulnerability Preparedness Committee. The committee received MVP action grant funds and has been able to complete an Agricultural Climate Action Plan and full Climate Action Plan resources and outline. They have also worked with Bolton and Devens to apply for regional MVP Action Grant funds for a Natural Climate Solutions project. They have created three action teams: Apple Country Team, Outreach/Communications Team and the Plan Development Team.

Lucy Wallace entered the meeting.

## **Proposed charge for a Transportation Advisory Committee**

Planning Board members Justin Brown and Stacia Donahue came to discuss the board's request to form a transportation committee. This committee would investigate and work to attain grant opportunities for alternate transportation projects. This committee could help with outreach for the upcoming Ayer Rd TIP project, connect with land lines group about bike routes thru Harvard to surrounding communities, connect with Devens on bicycle/pedestrian access, connect with MART on routes for commuter needs and determine park/ride locations and commuter rail shuttles. The Select Board members were supportive of the formation of this committee. The Planning Board will refine the charge and finalize structure for consideration at an upcoming meeting.

## **Bromfield House Committee: final interview and appointments**

Resident Jim Burns was interviewed and asked similar questions to the others who volunteered and were interviewed at the previous meeting. The board members decided to appoint another citizen at large due to the Bromfield Trust not appointing a representative.

Kara Minar recommended appointment of Stephen Ford for his financial background, Pat Jennings for her ideas and as a town center resident and Bill Ference also as a town center resident who lives in close proximity to the Bromfield House. All members were in agreement with her suggestion.

By a roll call vote, Maiore – aye, Minar – aye, Sklar – aye, Wallace – aye, von Loesecke – aye, the board voted unanimously to appoint Stephen Ford, Pat Jennings and Bill Ference to the Bromfield House Committee.

### **Ayer Road Construction project**

DPW Director Tim Kilhart provided a project timeline. He had been awaiting response from the Mass Dept. of Transportation (DOT) on the analysis from TEC of the SPICE tool. Kilhart reported Boston Traffic reviewed the results and also forwarded the analyses to the design firm that created the tools for their review. Kilhart read the response from DOT: the analysis shows that the difference in life-cycle costs between stop-control and roundabout are very close. They recommend Harvard move forward with the stop control option for a number of reasons, primarily related to ROW impacts, cost and permitting challenges. Boston Traffic has also indicated they would support this alternative. Kara Minar expressed frustration with this decision and is skeptical it is the optimal long term solution. By a roll call vote, Wallace – aye, Sklar – aye, Maiore – aye, von Loesecke – aye, Minar – nay, the board voted to endorse the 25% design with stop intersection at Gebo Lane. Minar voted nay because she is not convinced the town's position was properly presented.

### **Harvard Devens Jurisdiction Committee update**

Committee Chair Victor Normand said they are currently working with other stakeholders to develop a Memorandum of Agreement (MoA) on the path forward. This includes drafting of an RFP for major consultant services to assist in reaching consensus on permanent local governance. They will craft an implementation plan. Normand spoke at MassDevelopments annual meeting. The committee is aware this is a unique challenge. Normand said the committee will report back with any meaningful events that occur.

### **Open Space Committee charge**

By a roll call vote, Maiore – aye, Wallace – aye, Minar – aye, Sklar – aye, von Loesecke – aye, the board voted unanimously to accept revised committee charge with changes made tonight.

### **Board of Health stable permit insert**

Alice von Loesecke was contacted by the Board of Health Chair requesting the Select Board authorize mailing of a notice with tax bills about the stable permits. Due to the cost other avenues will be investigated such as a town wide mailing of a post card instead.

The meeting was adjourned at 10:30pm.

### **Documents referenced:**

Carlson Orchards 2021 renewal – dated 11.23.2020

National Grid pole petition requests – dated May 2020

Community Resiliency MVP updates – dated Dec 2020

Proposed Transportation Advisory Committee – dated Dec 2020

MA DOT Ayer Rd project timeline – dated 6.22.2020

Building Dept. permit fee revisions and inspector compensation – dated 12.1.2020

Harvard Devens Jurisdiction update & timeline – dated 10.8.2020

Stable permit reminder

Members of the Selectboard,

At the last meeting we expressed our concerns as resident abutters and a year later many of the issues that we had anticipated encountering have happened and sadly even surpassed that. Equally as disappointing was the response to concerns brought up this fall telling me that I should be grateful that I was being sent extra business when Carlosn's was at capacity. In actuality I was frustrated that my husband had to stay at our house to guard our yard and was unable to help out at the store where he was needed.

We are grateful for all of our customers, but the reality is that we have never not had enough business during our pick your own season. The safety of my family, my home and my comfort of living is my top priority. If we were in it for the money we would have sold the land and left farming long ago.

The traffic on Oak Hill this fall was unsafe, unacceptable and unfair to those who live on the hill. Cars were parking on both sides of the road, blocking driveways and making it so people could not pass. We were forced to cover our lawn in no parking and no trespassing signs as well as add security cameras to monitor when we couldn't be home because people were parking in our driveway, yelling at our dogs, walking in our yards as well as using our tree line as a restroom. With covid regulations he was only allowed 100 people including staff which was certainly surpassed so imagine the number of cars if there were no Covid rules and people were not hesitant to go out.

Personally I don't feel that as a tax paying neighbor in this community I should have to deal with the consequences of their lack of planning so that they can profit. I can't imagine that you would be okay if this happened in your yard and I would encourage you to seek input from the Chief of Police, Fire Chief and well as Nashoba Associated Boards of Health as he is only approved for 66 seats and make sure that they are in compliance in all areas required as well as a clear plan to handle all of the additional traffic before granting this license. Additionally, I don't feel that this license should carry over if there is a sale or transfer of the business as this license was created specifically for the current owners of Carlson Orchards.

Thank you for your consideration,

Stephanie O'Keefe

December 1, 2020

Dear Select Board Members,

The traffic on the hill was a problem this past fall. And we're not interested in hearing opinions, that are at best hypothetical as to what caused it to be the way that it was. The fact of the matter is that it was problem and it effected us as taxpaying residents, and as agricultural business operators.

To give you a better understanding of the fall pick your own season things began when we had nearly 30 cars drive all the way up our driveway to our home to turn around within a 4 hour period the first weekend in September. We were advised by HPD to place some barricades at the end, to which people actually got out of their cars to move so they could still turnaround. These actions resulted in HPD advising us to also post "no trespassing" signs with the "no parking per order of HPD signs". Which still was ineffective because cars would either block the end of our driveway all tougher or would still manage to pull in, park and wait in our driveway for space to open up in their parking lot. This was what went on for 6 weeks.

There we far too many interactions with people ignoring every effort under the sun. For some reason people felt that we should be hospitable and happy to host them. But the one that was most offensive was the woman who parked at the bottom of my driveway, walked halfway up, and went to the bathroom in the bushes.

In addition to overseeing our personal property, Chris and our brother in-law Brian O'Keefe, also had to usher people out of the "home farm" at 90 Oak Hill Rd and our parent's yard at 80 Oak Hill. Needing to ask people to not park on the lawn, pull into driveway, pose for family pictures in our parent's yard, and not use their property as a restroom. The roads were hazardous and impassable too many times.

To us none of these things are acceptable or excusable, and we hope that they wouldn't be acceptable or excusable to you as our town officials as well. There needs to be more oversight, and we hope you will address within the license conditions more effective ways to mitigate impacts on private property.

Chris has been farming for over 30 years and he has never once had Carlson Orchards impact his ability to do his job, even at the height of pick your own season. This past fall he had to navigate bumper to bumper traffic, often times at a standstill, in both directions in order to get to our land on Littleton County Rd. Navigating stop and go traffic on a tractor while transporting bins of apples -

that are packed to grade mind you - is not only unsafe for the operator, but does effect our bottom line. Additionally being stuck in standstill traffic for almost 15 minutes, with our large van, right at the blind apex of Oak Hill Road, and not being able to safely try and turn around and try another direction was frustrating to say the least. Every minute counts, especially when paid employees are waiting on you to go to the next worksite.

It needs to be acknowledged that with the addition of this license, food trucks and live music, patrons will linger on the property longer, and ultimately not allow parking to open up to manage the flow of traffic appropriately. There needs to be a better plan moving forward.

We are aware of the Ethical Standards stated within our Town Charter, that our elected officials and Town employees are *“expected to demonstrate with their general conduct and in the performance of their duties and responsibilities, the highest ethical standards to the end that the public may justifiably have trust and confidence in the integrity of its government.”* Due to the actions of our Town Administrator on their first attempt, coupled with the insufficient attention and scrutiny, after entering concerning documentation into the record last January, has us questioning the the longterm intentions of this license.

To ensure you are only acting on the license before you, we ask that you please add a condition to the current licensed conditions that states that the Farmer Series Pouring Permit for Carlson Orchards Inc will not be amendable or transferable in all respects, and that any requests for amendment or changes will be done through a fully noticed public hearing, with abutters notified.

We appreciate your attention and concern to the experiences and impacts shared above, and for your care and thoughtful consideration as you address this license renewal before you tonight.

Sincerely,

Chris & Kerri Green  
102 Oak Hill Road