



MINUTES OF SPECIAL TOWN MEETING, October 25 , 2017

At the Auditorium, Pioneer Valley Regional School in Northfield

Moderator:	Geoffrey A. Wilson
Town Clerk:	Paul Luther
Check-in Clerks:	Kathleen Montiglio, Donna Newton, Kristina Costello
Constable:	William Montiglio
Wardens:	Russell Deane, William Shores, Joanne Balzarini
Secret Ballot Clerks:	Louella Atherton, Kathy Montiglio
Floor Vote Counters:	Linda Raymond, Barry Auskern,
Volunteers:	Joanie Bernstein, Valerie Luther

The Moderator called the meeting to order at: 7:10pm 192 voters checked in at 7:10pm.
199 voters checked in by close of the meeting.
1548 registered voters.

Town Officials Present:

Selectboard: Chair; Stan Garland, Robert Raymond, Brian Keir
Finance Committee: Jane Dutcher, Chair; Brian Hervieux, David Lorenz, Stephan Nestanpower
Town Coordinator: Hugh Campbell; Town Counsel: Donna MacNicol
Fire Station Expansion Committee: Jane Dutcher, Brian Keir, Tim Snow, Sal Arnone, Dennis Shockro,
Scott DiGeorge, Peter Shedd

Non-Resident / Unregister Voters Known to be Present:

Shelby Ashline, Greenfield Recorder; Jared Smith, BFD; Devin Depault, BFD;
Mark Fortier, Northfield; Christian Guerton, Northfield.

The Moderator read the opening and notice of warrant confirming the proper posting of the warrant.

- *Pledge of Allegiance*
- *Town Clerk reviewed basic voting procedures and verified everyone registered had their one and only one secret ballot.*
- *Introduction of Public Officials who all verbally gave their names and duties*

Article 1: ***THE TOWN VOTED TO NOT*** borrow, or otherwise provide for the sum of \$585,000.00 for the purchase of 23 Kringle Drive, Bernardston, MA, consisting of 5.26(+/-) acres of vacant land for the purpose of building a Fire Station, and further, to authorize the Treasurer with the approval of the Selectboard to borrow, pursuant to MGL Ch. 44, Sec. 7(1), or any other enabling authority, said sum or a portion thereof for the purposes set forth herein, and to issue bonds and notes therefore, and further, to authorize the Selectboard and other appropriate public officials to take all actions necessary to effect the purposes of this article, provided, however, that this appropriation and debt authorization be contingent upon: (1) passage of Article 2, following, and (2) passage of a Proposition 2½ Debt Exclusion Referendum under General Laws Chapter 59, § 21C(k)

(Article 1 Continued . . .)

Article 1 was moved and seconded at about 7:20pm and the Fire Station Expansion Committee began a lengthy report by the Committee Chair, Peter Shedd (also the Chief of the Fire Department) explaining the history and rationale for both **Article 1 and Article 2**.

- The report included a PowerPoint presentation projected on the back wall of the stage, various handouts with a lengthy period of questions and answers from the residents both during and after the report.
- A significant fact not included in the report or any of the handouts was that the property on 23 Kringle Drive for which the Town was being asked to pay \$585,000 was assessed at about \$62,500.
- Details of the PowerPoint presentation and the other handouts can be found in the Town Clerk's Office and in the Permanent Records of Bernardston Town Meetings under "Special Town Meeting October 25, 2017, Addendum Nos.1-20."
- As part of the period of questions and answers a letter from "Bud" Frank Foster was read by The Moderator. The text of the letter can be found in the Town Clerk's Office and in the Permanent Records of Bernardston Town Meetings under "Special Town Meeting October 25, 2017, Addendum No.21"

*After a lengthy discussion, a request for a vote by secret ballot having been made by seven or more voters, and having been allowed by the Moderator, this process began at about 8:25pm and concluded at about 9:05pm, at which time **the Moderator declared that the article FAILED TO BE APPROVED by a secret ballot of 165 No to 31 Yes.***

Article 2: **THE TOWN VOTED TO PASS OVER** (postpone indefinitely) a vote to borrow or otherwise provide for the sum of \$2,015,000.00 for the purpose of building a Fire Station, including original equipment, site improvements, and all costs incidental and related thereto, and further, to authorize the Treasurer with the approval of the Selectboard to borrow, pursuant to MGL Ch. 44, Sec. 7(1), or any other enabling authority, said sum or a portion thereof for the purposes set forth herein, and to issue bonds and notes therefore, and further, to authorize the Selectboard and other appropriate public officials to take all actions necessary to effect the purposes of this article, provided, however, that this appropriation and debt authorization be contingent upon passage of a Proposition 2½ debt exclusion referendum under General Laws Chapter 59, Sec. 21C(k).

*The Article was moved and seconded, and immediately thereafter it was moved and seconded that the Article be **PASSED OVER** (postponed indefinitely) and after everyone who desired to speak had been heard, **the Moderator declared the motion passed over by a standing vote of 79 in favor of passing over to 77 to proceed.***

Article 3: **THE TOWN VOTED TO** raise and appropriate an amount not to exceed \$20,000.00 for the purpose of purchasing a vehicle for the Fire Chief.

*The Article was moved and seconded and after everyone who desired to speak had been heard **the Moderator declared it approved by a Majority Voice Vote (without any challenge to the decision).***

Article 4: **THE TOWN VOTED TO** raise and appropriate the amount of \$294.29 for the purpose of paying a FY17 bill related to the Police Department.

*The Article was moved and seconded and after everyone who desired to speak had been heard **the Moderator declared it approved by a 9/10 Majority Voice Vote based on only a single objection being heard and identified and applying the rule that if there was only 1 objection and there were more than ten votes (which was the case) on the question then the need for a 9/10 majority was satisfied (without any challenge to the decision).***

Article 5: **THE TOWN VOTED TO** raise and appropriate the amount of \$15,000.00 for the purpose of reimbursing the Renovate/Construct Town Buildings account for work approved by the Selectboard for improvements at the Highway Garage.

*The Article was moved and seconded and after everyone who desired to speak had been heard **the Moderator declared it approved by a Unanimous Voice Vote (without objection).***

Article 6: **THE TOWN VOTED TO PASS OVER** (postpone indefinitely) a vote to raise and appropriate or otherwise provide for the amount of \$7,000.00 for the purpose of installing new parking lot lights at Bernardston Elementary School.

*There was an immediate motion to pass over which was moved and seconded and after a brief explanation that the money was no longer needed for the purpose requested **the Moderator declared it approved by a Unanimous Voice Vote (without objection).***

Article 7: **THE TOWN VOTED TO** have the elected Town Clerk position become an appointed position, and in accordance with MGL Chapter 41 Section 1B, place on the ballot at the 2018 Annual Town Election the question: "Shall the Town vote to have its elected Town Clerk become an appointed Town Clerk of the town? Yes__ No__".

*The Article was moved and seconded and after everyone who desired to speak had been heard **the Moderator declared it approved by a Majority Voice Vote (without any challenge to the decision).***

Article 8: **THE TOWN VOTED TO** amend the Bernardston Zoning bylaws as follows:

Add to Article VI. Definitions

"Recreational Marijuana Establishment," shall mean a non-medical "marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."

Amend Section 4900 of the Bernardston Zoning bylaws to read as

"Temporary Moratorium on Recreational Marijuana Establishments."

(Article 8 Continued . . .)

Add Sections 4910 and 4920:

Section 4910. Purpose.

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (G.L. c. 94G, "Regulation of the Use and Distribution of Marijuana Not Medically Prescribed"). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016; Chapter 351 of the Acts of 2016) requires the Cannabis Control Commission to issue regulations regarding the licensing of commercial marijuana activities on or before March 15, 2018, and subsequently, to accept license applications for commercial operations beginning on April 1, 2018. Non-medical Marijuana Establishments as defined by G.L. c. 94 are not otherwise contemplated or addressed under the present Zoning Bylaw. The regulations to be promulgated by the Cannabis Control Commission may provide important guidance on aspects of local regulation of Recreational Marijuana Establishments, as well as details on how the Town may further restrict commercial sales of recreational marijuana by local ballot questions. Moreover, the regulation of recreational marijuana raises novel legal, planning and public safety issues, potentially necessitating time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the aforementioned State regulations on local zoning; and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

Section 4920. Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments. The moratorium shall be in effect through December 31, 2018, or until such time as the Town adopts Zoning Bylaw amendments that regulate Recreational Marijuana Establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and related uses, and shall consider adopting new Zoning Bylaws in response to these new issues.

The Article was moved and seconded and the Chair of the Planning Board, Christina Wysk, gave a summary explanation of the article (the text of which can be found in Addendum No.22 in the Town Clerk's Office and in the Permanent Records of Bernardston Town Meetings) and after everyone who desired to speak had been heard, the Moderator declared it approved by a Unanimous Voice Vote (without objection, therefore satisfying the required 2/3 majority for this article).

Article 9: THE TOWN VOTED TO amend the Bernardston Zoning bylaws as follows:

Add to Section 2234 Business/Industrial Uses Wireless Telecommunications Facilities is a use allowed in all zones with a Special Permit from the Planning Board designated as "SPP."

Add the following definitions to Article VI. Definitions:

Telecommunications Facilities.

Towers, antennas and accessory structures, including personal wireless facilities, used in connection with the provision of cellular telephone service, personal communications services, paging services, radio and television broadcast services, and similar broadcast services. Telecommunications facilities do not include the following facilities which are accessory uses or structures: antenna used solely for residential household television and radio reception; satellite antenna which are not visible from a neighboring property or public way and satellite antenna measuring two meters or less in diameter; nor amateur radio facilities under 65 feet above ground actively used in accordance with the terms of any amateur radio service license issued by the Federal Communication Commission, provided that the tower is not used or licensed for any commercial use.

Telecommunications Towers

Structures designed to support antennas, including freestanding towers, guyed towers, monopoles, towers on buildings, and similar structures.

Telecommunications Antenna

A system of electrical conductors that transmit or receive radio frequency signals, but not including any support system designed to increase the height of the antenna above the tower or building. Such signals shall include but not be limited to radio, television, cellular, paging, personal communication services (PCS) and microwave communications.

Add Section 3700 Wireless Telecommunications Facilities

Section 3710. Purpose

The Town of Bernardston seeks to encourage telecommunications and wireless services while minimizing adverse visual effects of these telecommunication facilities through careful design, siting, and vegetative screening and maximizing use of any new or existing towers, buildings and structures to reduce the number of towers needed.

Section 3720. Applicability

Telecommunication facilities are allowed as shown in 2230, Use Regulation Schedule, and 4400, Site Plan Review. A special permit is required for any new tower. Site plan approval, in accordance with this section and 4400, Site Plan Review, is required for a telecommunications facility. The site plan shall be prepared by a registered land surveyor and/or registered professional engineer. In addition to the requirements of 4400, the plan shall show the following requirements:

Section 3730. Requirements

For any new towers, the details of the tower (monopole, guyed, freestanding, or other), guy wires and anchors, tower lighting, and all structures located within 300 feet of any tower. Tower details must be prepared by a registered professional engineer qualified in structural design.

For any new towers or antennas, additional visual and aesthetic information including, among other things, enhanced landscaping plans, line-of-sight drawings, and/or visual simulations adequate to determine the visual impact of the tower. The Planning Board may require more visual analysis before acting on a site plan application.

Demonstrate that all approval criteria have been addressed.

Section 3740. Approval Criteria

In addition to the 5300 special permit criteria and 4400 site plan review criteria, the following criteria will be considered prior to the approval or denial of a request for site plan and special permit. The criteria listed may be used as a basis to impose reasonable conditions on the applicant.

Siting. Before any new tower is approved, the applicant must prove that it is not feasible to locate their antenna(s) and facilities on an existing tower or building. Before a new tower is proposed in a residential district, the applicant must also prove that it is not feasible to locate the antenna and facilities in other districts or on municipal facilities. Such demonstration studies shall include a summary of propagation studies and a plan for any network of facilities.

Collocation. Any new tower must be designed, to the maximum extent which is practical and technologically feasible, for collocation of telecommunications antennas, including designing to accommodate at least three telecommunication providers, offering space to all other telecommunication providers at market rates, and providing for towers that can be expanded upward. Tower owners must maintain a record of the site location and coordinates, elevation, available space at each height, existing frequencies in use, and the name and number that an interested user can contact and make such a file available to the Planning Board upon request within 30 days.

Aesthetics. Telecommunications facilities shall be designed, located and buffered, to the maximum extent which is practical and technologically feasible, to ensure compatibility with surrounding land uses. This shall include, but not be limited to, the following items:

Selecting the type of tower (e.g., monopole, guyed or freestanding lattice) with the least visual impact.

Providing additional landscaping to screen facilities and preserving, to the extent possible, existing on-site trees and vegetation. Use of towers other than monopoles may require additional landscaping.

Designing and siting towers to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).

Using materials and colors to be compatible with the surrounding environment and land uses to blend in with the site to the extent practical.

Towers shall not contain any signs or advertising devices.

Fencing must be designed to be as unobtrusive as possible.

Section 3750. Radio Frequency Effect

All telecommunication facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies, power levels and standards, and that the applicant shall provide certification to support that the maximum allowable frequencies, power levels and standards will not be exceeded. Certification shall include technical specifications, an explanation of those specifications, and, if necessary, field verification.

Section 3760. Dimensional and Density Regulations

Telecommunications facilities shall adhere to 2300, Dimensional Requirements, except as follows:

Towers designed for one telecommunication provider shall be limited to 130 feet. Towers designed for collocated facilities shall be allowed an additional 20 feet for each additional provider up to a maximum of 220 feet. These height limits shall not apply to towers for or partially for government or emergency telecommunications, to the extent such height is needed to serve government or emergency telecommunication use.

In residential districts, a tower must be setback from all property lines at least twice the distance equal to its height. In other districts, a tower must be setback from all property lines at least the distance equal to its height. The Planning Board, however, may allow a shorter setback if the shorter setback provides adequate safety and aesthetics and the manufacturer or qualified licensed designer certifies that the tower is designed to collapse on itself or otherwise collapse safely and within the property controlled by the applicant in the event of failure. The Planning Board may allow lesser setbacks necessary to allow the use of an existing structure.

Section 3770. Maintenance of Telecommunications Facilities

The applicant shall remove any telecommunications facility that ceases to be used for its intended purpose for 12 consecutive months. The Planning Board may require a performance guarantee to insure that unused facilities are removed.

Section 3780. Abandonment or Decommissioning

All telecommunications facilities shall be maintained in good order and repair. Any paint and finish must be maintained and repaired when the blemishes are visible from the property line. The applicant must provide an inspection schedule and file copies of inspections with the Planning Board.

Section 3781. Removal Requirements

The owner shall notify the Planning Board by Certified Mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a) Removal of all towers, antenna, structures, equipment, security barriers and transmission lines from the site.
- b) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulation.
- c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

(Article 9 “Section [3700]/3782. . .” Continued . . .)

Section 3782. Financial Security

Applicants of telecommunication installations shall provide a form of surety, either through escrow account, bond, or otherwise, to cover the cost of removal in the event the town must remove the facility and remediate the landscape. A plan shall be submitted, as part of the application for a wireless telecommunication facility to return the site to a pre-existing condition, as determined reasonable by Site Plan Review Authority, with the form of surety to be held by the Town in the amount of 125% of the applicant provided estimate (RS Means or equivalent) for such work. The amount shall include a mechanism for calculating increased removal costs due to inflation. The surety shall be submitted to the Planning Board prior to the issuance of the Building Permit, as well as prior to any disturbance, including tree cutting, at the site.

Section 3790. Severability Provision

If any part of this bylaw is found not to be legal the rest will remain in effect.

The Article was moved and seconded and the Chair of the Planning Board, Christina Wysk, gave a summary explanation of the article (the text of which can be found in Addendum No.22 in the Town Clerk’s Office and in the Permanent Records of Bernardston Town Meetings) and after everyone who desired to speak had been heard, the Moderator declared it approved by a Unanimous Voice Vote (without objection, therefore satisfying the required 2/3 majority for this article).

Meeting Adjourned at 10:03pm

Respectfully Submitted, November 7, 2017



Paul W. Luther, Bernardston Town Clerk