

**Town of Bernardston
Selectboard Meeting Minutes**



Board Members

Brian J. Keir

Stanley D. Garland, Chairman

Kenneth R. Bordewieck

Minutes for the meeting of November 1, 2023

Meeting held at Bernardston Town Hall
38 Church St, Bernardston, MA 01337

Selectboard Members Present:

Stan Garland
Ken Bordewieck
Brian Keir

Others Present:

Jane Dutcher
Christina Slocum-Wysk

Stan called the meeting to order at 6:02pm.

Warrants

Ken motioned to approve the Payroll Warrant in the amount of \$50,156.47.
Brian seconded and the motion was approved 3-0.

Ken motioned to approve the Vendor Warrant in the amount of \$45,787.45.
Brian seconded and the motion was approved 3-0.

Minutes

Ken motioned to approve the minutes of the Regular Meeting on October 18, 2023. Brian seconded and the motion was approved 3-0.

Ken motioned to approve the minutes of the Special Meeting on October 25, 2023. Brian seconded and the motion was approved 3-0.

Calendar and Announcements

Stan read the calendar and announcements as presented on the attached agenda.

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Appointment

Brian McHugh, Director of Community Development:

Executive Office of Housing and Livable Communities (EOHLC) is in receipt of a draft Professional Services Contract between the Town of Bernardston and Franklin County Regional Housing and Redevelopment Authority for the provision of grant administration services for the 2022/2023 Community Development Block Grant. A grant for the amount of \$1,261,301.00 that includes the replacement of the septic system for Bernardston Country Estates and a small housing rehab services was approved. The Town of Bernardston will sign a contract with the Franklin County Regional Housing Authority for grant administrative services.

New Business

Retail Liquor License Renewals: Two liquor license certificates for 2024 were signed by the Selectboard.

- Marshalls (formally named Corner Country Store), Owner: J & A Snow Enterprises
- Antonio's II Pizza & Grinders, Owner: AI Limited, LLC

Ken motioned to approve the Liquor licenses for Marshalls and Antonio's II Pizza & Grinders. Brian seconded and the motion was approved 3-0.

Cannabis Social Equity Policy:

On June 29, 2023, the Massachusetts Cannabis Control Commission (CCC) issued guidance on how to create a model Social Equity policy that encourages cities and towns in Massachusetts to consider incentives for increased participation by Social Equity applicants in their local cannabis ecosystem.

Based on cannabis Social Equity best practices and guidance from the CCC, the Town's cannabis counsel, Mead, Talerman & Costa has drafted a Cannabis Social Equity Policy for the Selectboard to consider for adoption.

The Selectboard decided to move the item to the next regular Selectboard meeting on November 15, 2023 as 'Old Business' so they have more time to read through the policy.

Pratt Field Recovery: Following Sunday's Soccer Jamboree, Brian Miner found Pratt Field to be in various stages of disrepair. The Highway Department has flattened-out the perimeter traffic area. Brian Miner suggests reseeding areas that were used for parking, because if they're allowed to stay bare they could become problematic again in the future.

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Selectboard Meeting Minutes
November 1, 2023
(continued)

Brian's recommendation is to spread grass seed over the remaining affected areas. Brian recommends 500 lb of grass seed for Pratt Field and Cushman Park costing on or about \$1000.00. Brian is looking for approval to buy the grass seed. No motion was made to purchase the grass seed.

Town Facility Usage Process: Based on the Pratt Field condition and the status of Cushman Park following the Scarecrow festival, the Board should discuss some options that could become part of a formal facility usage application. The eventual usage process request would resemble the form currently used for BES event usage. The Selectboard agreed to develop a request form similar to the BES usage form with a phrase included about weather permitting and public safety. Another problem is people walking on the park side of Route 5 over the covert. The Selectboard is considering the installation of a railing or bridge for that area. The Selectboard would like to have a meeting with Brian Minor at Cushman Park to see what can be done.

Deputy Emergency Management Director Resignation: Bill Montiglio submitted his resignation as the Deputy Emergency Management Director, on October 19, 2023, effective October 31, 2023. The Selectboard will send him a letter of appreciation. No motion was made to approve the resignation.

Zoning Board of Appeals status: The Town Clerk was following up on a special permit application that was filed in February of 2022. The application was not processed and has remained in limbo since that date. At the present time, we are unsure of the status of the ZBA. The last known business of the ZBA was in 2020 and several attempts to contact the Chair have gone unanswered. The Selectboard will send a letter to Zoning Board of Appeals (ZOA), Dan Devine, Chair, requesting an update on the current status of the ZOA.

Old Business

BES Septic: We received an email from Grechen Licata confirming that the repairs are complete and working well. Both pumps and the control board were replaced. On October 10, 2023, Brian Keir received an email from Jordan Burns, Director of Finance and Operations, PVRSD. The BES septic cost up to \$229,000 and BES was only budgeted for \$29,000. This item will be added to the Selectboard Meeting with PVRSD.

Bernardston Fire Department Chief: Lloyd Grover has volunteered to serve as the active Fire Department Chief until Peter Shedd special legislation passes.

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Town Coordinator Report

A conversation between the Town Coordinator and the Recreation Department was had to ensure that the Recreation Department Director signs all timesheets moving forward. Conversation between the Town Coordinator and the Treasurer was had about discussing the timesheet process with the new conservation agent, Savannah.

Jesse and Amber Snow have successfully transferred the liquor license from the Corner Country Store to Marshalls. They are going to be rebranding the store as Marshalls next week.

We received notification of free cash certification in the amount of \$536,000.00. The amount is higher than usual so Finance Committee Chair, Jane Dutcher will be doing some research to ensure the correct amount is recertified.

The NEXAMP Pilot payment for the Fox Hill Solar Project is due next week. The Town Coordinator made contact with Andrew Lorens from NEXAMP to confirm payment in the amount of \$30,611.82. The NEXAMP payment will go into the General Fund because it wasn't voted to go into a specific stabilization fund. This is payment 3 of 20. Payments are made annually for the next twenty years starting in 2020.

The Town Coordinator heard from Town Counsel (Donna) regarding the current status of Fire Department Chief, Peter Shedd. Donna is waiting for the Massachusetts Fire Services General Counsel for their final update on the status of a Volunteer Fire Chief. It sounds like it is not relevant any longer because the MGL does not address volunteer status for that position.

King Information Systems was here on Wednesday, October 25, 2023 to process the boxes of past files. We have the form for the State and we will arrange to get the identified boxes shredded. We are good for another two years.

Other business unknown at time of posting:

The Selectboard asked the Town Coordinator to follow-up with the Board of Assessors and the Treasurer on the status of the Fox Hill Solar Project (Pacifco) to determine if the project is taxed as personal property or as a pilot program (Assessors) and if bond was posted (Treasurer). The Assessors will determine what is going to be the best tax option for the Town and come to the Selectboard to make the decision. It was confirmed that the Fox Hill Solar Project did go through the Planning Board.

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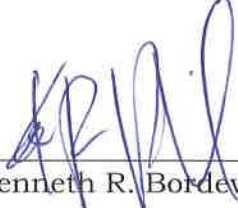

Selectboard Meeting Minutes
November 1, 2023
(continued)

Brian Keir brought up the CCC new Cannabis Control Commission (CCC) rules that may affect Community Host Agreements funds. The potential that we may have to give back some of our Host Agreement monies (separate from tax money) exists but is unknown at this time. There is a chance that we may have to give back several thousands of dollars.

The Selectboard would like to have a meeting with the Finance Committee to determine how much money we should set aside in a special fund, etc.

With no further business to be discussed, Ken motioned to adjourn the meeting at 6:58pm. Brian seconded and the meeting adjourned.

Attested by: Karen Kelly, Interim Town Coordinator


_____, Chairman 
Stanley D. Garland Kenneth R. Bordewieck 
Brian J. Keir



BERNARDSTON SELECTBOARD - MEETING SIGN-IN SHEET

Meeting Date: 11/1/2023

Meeting Time: 6:00 AM/PM

Name

Address

Phone/Email

[Signature]

BLAIR McHUGH

Christina Slocum-Wysocki

Ferrisna

Town Clerk

[Signature]
Dmehugh@ferhna.org

Town of Bernardston
Selectboard Meeting Agenda
Wednesday, November 1, 2023, 6:00PM



Bernardston Town Hall, 38 Church Street, Bernardston MA

Board Members

Brian J. Keir

Stanley D. Garland, Chairman

Kenneth R. Bordewieck

Call to Order - 6:00pm

Warrants

- Payroll and Vendor; weeks ending October 28, 2023

Meeting Minutes

- Regular Meeting of October 18, 2023
- Special Meeting of October 25, 2023

Calendar & Announcements

- Senior Center Ribbon Cutting Ceremony for the public computer room; Tuesday, November 7, 2023 @ 10:30am; Bernardston Senior Center
- Council on Aging meeting, Tuesday, November 7, 2023 @ 9:30am, Bernardston Senior Center

Citizens Concerns

Appointments

- Brian McHugh, Director of Community Development, FCRHRA, Community Development Block Grant - Professional Services Contract

New Business

- Liquor license renewals
- Cannabis Social Equity policy
- Pratt Field recovery
- Town Facility Usage Process
- Deputy Emergency Management Resignation
- Zoning Board of Appeals Status

Old Business

- Fire Chief Update

Town Coordinator Report

Other Business Unknown at time of posting

Adjourn

This meeting was posted on Monday, October 30, 2023 @ 3:20pm



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus Jr., Secretary

October 12, 2023

Brian J. Keir
Selectboard Chairman
Town of Bernardston
38 Church Street
Bernardston, MA 01337

**Re: Community Development Block Grant –
FFY 2022/2023 Professional Services Contract: Town of Bernardston Grant #00952**

Dear Mr. Keir,

The Executive Office of Housing and Livable Communities (EOHLC), formerly the Department of Housing and Community Development (DHCD), is in receipt of a draft Professional Services Contract between the Town of Bernardston and Franklin County Regional Housing and Redevelopment Authority for the provision of grant administration services for the FFY 2022/2023 CDBG grant.

EOHLC has reviewed the draft contract and finds the language acceptable. The Executive Office looks forward to the timely implementation of the Town's FFY 2022/2023 CDBG grant. If you have any questions or need assistance, please contact your CDBG Program Representative, Nathan Delude, nathan.delude@mass.gov.

Sincerely,

Kathryn McNelis

Kathryn McNelis
Community Development Manager
Division of Community Services

cc: Brian McHugh, Director of Community Development, FCRHRA
Sharon Pleasant, Community Development Program Manager, FCRHRA

Town of Bernardston Cannabis Social Equity Policies

Purpose and Scope

On August 11, 2022, Governor Charlie Baker signed S. 3096, An Act Relative to Equity in the Cannabis Industry, into law. The new law requires host municipalities to establish initial policies to promote Equity in the cannabis industry no later than July 1, 2023, or be subject to monetary penalties. On June 29, 2023, the Massachusetts Cannabis Control Commission (“CCC”) issued guidance on how to create a model a Social Equity policy that encourages cities and towns in Massachusetts to consider incentives for increased participation by Social Equity applicants in their local cannabis ecosystem.

Based on cannabis Social Equity best practices, guidance from the CCC, and lessons learned from the Town of Bernardston’s current cannabis business permitting program, the Town of Bernardston adopts a set of policies to further promote Equity for new Social Equity applicants seeking to establish businesses in Bernardston.

Applicability

The CCC’s Social Equity programs provide training and technical assistance to applicants who have been disproportionately impacted by the War on Drugs, marijuana prohibition, arrests, and incarceration and who meet certain income and residency requirements. The Town of Bernardston defines qualifying Social Equity applicants under Bernardston’s Cannabis Social Equity Policies as those that have been certified as eligible to participate in the CCC Social Equity Program or are Certified Economic Empowerment Priority Applicants according to the CCC.

The Town of Bernardston Cannabis Social Equity Policies:

In evaluating requests for Host Community Agreements within the Town of Bernardston, an evaluation form will be made available that scores components of an application. The evaluation form will include consideration of equity in the overall evaluation score, which will comprise not less than 25 percent of the total evaluation score. This equity component will include: (i) whether a License Applicant is pre-verified as a Social Equity Business by the Commission; (ii) whether the License Applicant is a Social Equity Program Participant; (iii) whether the License Applicant is an Economic Empowerment Priority Applicant; (iv) whether the License Applicant has a prior Marijuana related criminal conviction; (v) whether the License Applicant is part of an Area of Disproportionate Impact, as identified by the Commission; or (vi) a majority of the License Applicant entity is comprised of individuals from Black, African American, Hispanic, Latino, or Native American or indigenous descent.

1. The Town of Bernardston will enhance marketing and outreach to potential Social Equity applicants by promoting available HCAs to the Cannabis Control Commissions’ Social Equity program, promoting on the Town’s website and social media, and enhanced business outreach as part of the Town’s Economic Development program.
2. The Town of Bernardston will provide permitting technical assistance for Social Equity and Economic Empowerment applicants navigating the Town of Bernardston’s cannabis permitting process. The Town will create a website with guidance and resources for applicants and a list of all required permits, including necessary forms. A municipal contact will be listed on the Town website who will work closely with Social Equity applicants in the permitting process from initial inquiry through the special permit and building permit process.

3. Under the state program, Social Equity and Economic Empowerment applicants are eligible for exclusive access to Delivery Licenses, including Marijuana Courier and Marijuana Delivery Operator licenses, for at least a three-year period from April 1, 2022 to April 1, 2025.
4. Wherever possible, the Town of Bernardston will reduce financial barriers and expedite the permitting for Social Equity and Economic Empowerment applicants. Throughout the Town of Bernardston's Special Permit process, the Town will endeavor to streamline permitting for these applicants.
 5. The Town of Bernardston will update its municipal website pages regarding its adult retail and medical cannabis approval process and centralize all information on one page, including a list of all documentation required by a Host Community's local approval process in downloadable form, in order to be user friendly and transparent.
 6. The Town of Bernardston will offer a _____ % reduction of the Special Permit Fee for Social Equity Program or Certified Economic Empowerment priority applications to reduce barriers to entry.

Memorandum

To: Host Communities
From: Cannabis Control Commission
Date: June 29, 2023
Subject: Initial Policies and Procedures for Host Communities to Promote and Encourage the Full Participation in the Regulated Marijuana Industry by People from Disproportionately Harmed Communities as Required by Chapter 180 of the Acts of 2022

Chapter 180 of the Acts of 2022: An Act Relative to Equity in the Cannabis Industry (“Chapter 180”) was enacted by the Massachusetts Legislature on August 1, 2022, and signed by Governor Baker on August 11, 2022. Under Chapter 180, the Cannabis Control Commission (“Commission”) has been tasked with ensuring that people from communities disproportionately harmed by the prohibition and enforcement of marijuana are guaranteed fair, transparent, and equitable access to the regulated cannabis industry, with the hope of promoting their full and meaningful participation. Chapter 180 also mandates that the Commission guide Host Communities to encourage full participation in the cannabis industry by establishing their own transparent and objective selection processes when negotiating Host Community Agreements (“HCAs”) with Social Equity Businesses.

Host Communities are required to adopt initial policies and procedures related to municipal equity by July 1, 2023. The Commission provides this memorandum to suggest strategies and resources for Host Communities to consider in order to meet this requirement. Chapter 180 requires the Commission to promulgate regulations in accordance with these requirements no later than November 9, 2023, at which time, a full regulatory framework will be issued and enforced in collaboration with the Department of Revenue.

To meet this new mandate, Host Communities should consider focusing on ways to support people from communities disproportionately harmed by marijuana prohibition and enforcement, which may include Social Equity Businesses, as defined by Chapter 180, as well as Social Equity Program (“SEP”) Participants or Certified Economic Empowerment Priority Applicants (“EEA”) as defined under Commission regulations. To date, 872 people have participated in the Commission’s SEP. Further, 122 individuals have qualified as EEAs. Past participants or qualifying applicants would be eligible to fulfill the Host Community’s equity mandate.

Host Communities should also be aware that, under M.G.L. c. 64N, §5, they may be eligible to receive an additional 1% of the total sales price of the sale of marijuana or marijuana products from that portion of the excise imposed on marijuana and marijuana products, distributed quarterly, if they host a marijuana retailer that is a Social Equity Business.

Below, Host Communities will find a brief description of the criteria that applicants must possess to qualify for the SEP or as an EEA. Host Communities may adopt initial policies and procedures to promote and encourage the full participation of applicants that qualify for these programs in order to meet their obligation under Chapter 180.

Applicants are eligible for the Commission’s SEP if they demonstrate they meet at least one of the criteria below:

- Income that does not exceed 400% of Area Median Income and residency in a Disproportionately Impacted Area, as defined by the Commission, for at least five of the past 10 years;
- Residency in Massachusetts for at least the past 12 months and a conviction or continuance without a finding for an offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions;
- Residency in Massachusetts for at least the past 12 months and proof that the SEP applicant was either married to or the child of an individual with a conviction or continuance without a finding for a M.G.L. c. 94C offense or an equivalent conviction in Other Jurisdictions;
- Any individual listed as an owner on the original certification of a Certified Economic Empowerment Priority Applicant who satisfies one or more the following criteria:
 - Lived for five of the preceding 10 years in a Disproportionately Impacted Area, as determined by the Commission;
 - Experience in one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities;
 - Black, African American, Hispanic or Latino descent; or
 - Other significant articulable demonstration of past experience in or business practices that promote economic empowerment in a Disproportionately Impacted Area.

If you need to verify if someone participated in the SEP, you can request guidance from the Commission at Equity@CCCMass.com or (774) 415-0200. If you need to verify qualifications for the SEP, you can review the resources at MassCannabisControl.com/Equity.

In accordance with state law, the Commission provided priority licensing review to EEAs between April 1, 2018, and April 15, 2018. EEA status was granted to applicants who demonstrated at least three of the following six criteria:

- Majority of ownership belongs to people who have lived in Disproportionately Impacted Areas for five of the last 10 years.
- Majority of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities.
- At least 51% of current employees/subcontractors reside in Disproportionately Impacted Areas and will increase to 75% by first day of business.
- At least 51% of employees or subcontractors have drug-related CORI but are otherwise legally employable in a cannabis-related enterprise.
- Majority of ownership is made up of individuals from Black, African American, Hispanic, or Latino descent.
- Owners can demonstrate significant past experience in or business practices that promote economic empowerment in Disproportionately Impacted Areas.

If you need to verify if someone is certified as an EEA, you can request guidance from the Commission at Equity@CCCMass.com or (774) 415-0200. If you need to verify qualifications for EEA status, you can review the resources at MassCannabisControl.com/Equity.

These definitions, the Commission's existing guidance documents, and the suggestions listed below, are intended to give Host Communities the tools they need to establish initial policies and procedures to promote and encourage the full participation by people from communities disproportionately harmed by the prohibition and enforcement of marijuana. This information is not intended to serve as legal advice. These initial policies and procedures may serve as a base program for equity in the Host Community's respective cannabis policies and lay the groundwork for the upcoming regulations promulgated by the Commission.

If Host Communities have legal questions regarding their rights or obligations under the Commonwealth's cannabis laws or any other laws, they are encouraged to consult with town or corporate counsel.

Below are some policies a municipality may consider utilizing to satisfy the requirement to adopt initial policies and procedures under Chapter 180:

Lower or eliminate fees for equity applications to reduce barriers to entry:

- Consider a waiver or reduction of fees associated with the municipal HCA approval process and/or zoning review process.
- Reduction or elimination of the Community Impact Fee.

Improve transparency and efficiency in the approval process to reduce barriers to entry and lower costs:

- Host Communities should adopt options to support equity applicants within their HCA selection scoring assessment.
- Make improvements to municipal websites to clearly outline the steps needed to gain approval for an HCA (including zoning and other approvals, not limited to the fire chief, health department, and police chief).
- Create a written roadmap that can be accessed on a public bulletin board or in a packet handed out to applicants. This document should provide a clear picture of the steps needed for approval, including the relevant contacts within municipal government responsible for approval.
- Create links to all needed application documents or create a package of documents needed for HCA/Zoning approval, meeting dates, submission deadlines, associated fees, information and contacts for all parties involved in the cannabis business application process.
- Communities should expedite their response to the Commission's request for confirmation that an applicant is compliant with local zoning, ordinances, and bylaws.

Other items to consider either on a website or in a roadmap document:

- Include the most up to date local cannabis ordinances.
- Include a map that clearly designates areas for zoning of Marijuana Establishments and Medical Marijuana Treatment Centers.
- Publicize all HCA applications as well as any written scoring or evaluation made by the Host Community when reviewing applicants for approval.
- Create a clearly defined HCA approval process that includes the criteria decision makers will consider when choosing successful applications.
- Determine how equity will be included in this evaluation process.
- Consider eliminating or reducing the weight of prior participation in the regulated cannabis market when scoring applications, which can discourage equity applicants or smaller entrepreneurs.

Two Host Communities that currently provide positive examples are Newton and Somerville. While all Host Communities may not have the same resources as these larger communities, their websites provide many examples of policies and procedures that promote transparency, objectivity, and inclusion of equity that communities might consider adopting.

Newton includes equity as one criterion when considering HCA applications. They provide clear details into the special permit process. The zoning map includes an overlay of allowed areas for applicants to assess; and incorporates special limitations the community has adopted (e.g., requiring half mile separation between siting of individual licensees). It includes relevant contact information, and the HCA application is accessible online. Newton publicizes HCA decisions including how reviewers weighed the applicant against the stated criteria.

- <https://www.newtonma.gov/government/planning/development-review/high-interest-projects/marijuana-uses>

Somerville not only includes equity in its scoring process, but has created a numerical grade for each criterion, and lists all relevant application fees. These scores and a written description offer even greater transparency, making it easier for all applicants and the community to see how decisions are made and further promote confidence that equity applicants enjoy a fair opportunity to compete.

- <https://www.somervillema.gov/departments/programs/adult-use-marijuana-establishments>

Here are some links to helpful resources available through the Commission website:

- [Guidance for Host Communities on Equity and Host Community Agreements](#)
- [Guidance on Equity Programs](#)
- [Frequently Asked Questions about the Social Equity Program](#)
- [Equity Webpage](#)
- [State and Local Government Webpage](#)
- [Host Community Agreements Webpage](#)
- [Municipal Equity Webpage](#)

If you have any questions on this memorandum, please contact the Commission at Commission@cccmaass.com.

Subject **Fwd: Resignation as Deputy Emergency Management Director**



From PETER and ROXENE SHEDD
<4c1pshedd@comcast.net>
To Bernardston Selectboard
<bos@townofbernardston.org>
Date 2023-10-26 18:43
Priority Normal

Forwarding this to the Board.

Mr. Shedd

----- Original Message -----

From: BILL MONTIGLIO <billymontz@comcast.net>
To: Peter Shedd <4c1pshedd@comcast.net>
Date: 10/19/2023 11:44 AM EDT
Subject: Resignation as Deputy Emergency Management Director

Peter, I submit my resignation as Deputy Emergency Director, Town of Bernardston, effective October 31, 2023.

As discussed, I will be out of town October 20 - 27. I will check in when I return to attend to any final details.

It's been a real pleasure working with you. Thank you!

4.9 Temporary Moratorium on Recreational Marijuana Establishments (added October 25, 2017, removed December 31, 2018)

ARTICLE V. ADMINISTRATION.

5.1. Administration. *(Amended May 21, 2014)*

- A) Permits. This By-Law shall be administered by the Building Inspector. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use without certification by the Building Inspector that such action is in compliance with then-applicable zoning, and that all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as such certification.
- B) Enforcement. The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits and variances issued thereunder, including notification of non-compliance and request for legal action through the Selectmen to Town Counsel.
- C) Penalties. The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be One Hundred dollars (\$100.00) for each offense. Each day that each violation continues shall constitute a separate offense.

5.2. Board of Appeals.

- A) Establishment. There is hereby established a Board of Appeals which shall consist of five members and three associate members, who shall be appointed and act in all matters under this By-Law in the manner prescribed in M.G.L.A. ch. 40A.
- B) Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapter 40A, 40B, and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

- 1) To hear and decide applications for Special Permits upon which the Board is empowered to act in this By-Law, in accordance with the provisions of Section 5300.
- 2) To hear and decide appeals or petitions for variances from the terms of this By-Law, including variances with respect to particular land or structures. Such variance shall be granted, pursuant to M.G.L.A. c.40A, s.10, as may be amended, only in cases where the Board of Appeals finds all of the following:
 - a. A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial or otherwise, to the petitioner or applicant.
 - b. The hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
 - c. Desirable relief may be granted without either:
 - i substantial detriment to the public good; or
 - ii nullifying or substantially derogating from the intent or purpose of this By-Law.
 - d. The Zoning Board of Appeals shall not grant variances for uses.
- 3) To Hear and Decide Other Appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:
 - a. any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provision of M.G.L.A. ch. 40A; or by
 - b. the Franklin County Planning Board; or by
 - c. any person including any officer or Board of the Town of Bernardston, or of any abutting town, if aggrieved by any order or decision of the Building Inspector or other administrative official, in violation of any provision of M.G.L.A. ch. 40A, or this By-Law.
- 4) To Issue Comprehensive Permits. Comprehensive Permits for construction may be issued by the Board of Appeals for construction of low or moderate income housing by a public agency or limited dividend or non-profit corporation, upon the Board's determination that such construction would be

consistent with local needs, whether or not consistent with local zoning, building, health, or subdivision requirements, as authorized under M.G.L.A. ch. 40B.

- 5) To Issue Withheld Building Permits. Building Permits withheld by the Building Inspector acting under M.G.L.A. ch. 41, s. 81Y, as a means of enforcing the subdivision control law, may be issued by the Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.
 - 6) To hear and decide appeals, should the Selectmen appoint the Board of Appeals as such an authority, as provided under Section 126 of the Mass. State Building Code.
- C) Public Hearings. The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws, with regard to all appeals and petitions brought before it.

5.3. Special Permits.

- A) Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.
- B) Public Hearings. Special Permits shall only be issued following public hearings held within sixty-five (65) days after filing an application with the Special Permit Granting Authority, a copy of which shall forthwith be given to the Town Clerk by the applicant.
- C) Criteria. Special Permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the proposed use will not have adverse effects on either the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:
 - 1) Social, economic, or community needs which are served by the proposal;
 - 2) Traffic flow and safety;
 - 3) Adequacy of utilities and other public services;
 - 4) Neighborhood character and social structure;

- 5) Impacts on the natural environment;
 - 6) Potential fiscal impact.
- D) Conditions. Special Permits may be granted with such reasonable conditions, safeguards, or limitations on time or use as the Special Permit Granting Authority may deem necessary to serve the purposes of this By-Law.
- E) Expiration. Special Permits shall lapse 36 months following Special Permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L.A. ch. 40A, s. 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.
- F) Expedited Permitting District. Special Permit decisions for applications in the Expedited Permitting Districts must be made within 180 days of the Planning Board's notice to the Applicant that the application is complete. This time may be extended by mutual agreement between the Planning Board and the Applicant by written agreement filed with the Town Clerk. Failure of the Planning Board to take action within said 180 days or the extended time shall be deemed constructive approval of the Plan for the project. The Town Clerk shall provide a copy of the decision to the Applicant.
- G) Upon written request by the applicant, the Special Permit Granting Authority may waive or reduce any requirement of this Section by the same majority vote required for the permit itself upon written findings included in the permit of: 1) special circumstances of the site, its surroundings, or the proposal that negate the need for imposition of the requirement; or 2) the objectives of this Section may be met in an alternative manner; and 3) that such a waiver or reduction will not derogate from the public purposes and intent of this zoning bylaw. In the case of a special permit, such requests must be made by the applicant no later than the close of the public hearing. An affirmative or negative vote under this paragraph shall not be construed as an approval or disapproval of the permit sought.
- H) Amendments. This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in M.G.L.A. ch. 40A, s. 5, and any amendments thereto.

5.5. Applicability.

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 40A** ZONING**Section 12** BOARDS OF APPEAL; MEMBERSHIP; RULES

Section 12. Zoning ordinances or by-laws shall provide for a zoning board of appeals, according to the provisions of this section, unless otherwise provided by charter. The mayor subject to confirmation of the city council, or board of selectmen shall appoint members of the board of appeals within three months of the adoption of the ordinance or by-law. Pending appointment of the members of the board of appeals, the city council or board of selectmen shall act as the board of appeals. Any board of appeals established hereunder shall consist of three or five members who, unless otherwise provided by charter, shall be appointed by the mayor, subject to the confirmation by the city council, or by the selectmen, for terms of such length and so arranged that the term of one member shall expire each year. Each zoning board of appeals shall elect annually a chairman from its own number and a clerk, and may, subject to appropriation, employ experts and clerical and other assistants. Any member may be removed for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for unexpired terms in the same manner as in the case of original

appointments. Zoning ordinances or by-laws may provide for the appointments in like manner of associate members of the board of appeals; and if provision for associate members has been made the chairman of the board may designate any such associate member to sit on the board in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board until said vacancy is filled in the manner provided in this section.

The board of appeals shall adopt rules, not inconsistent with the provisions of the zoning ordinance or by-law for the conduct of its business and for purposes of this chapter and shall file a copy of said rules with the city or town clerk. In the event that a board of appeals has appointed a zoning administrator in accordance with section thirteen said rules shall set forth the fact of such appointment, the identity of the persons from time to time appointed to such position, the powers and duties delegated to such individual and any limitations thereon.

Part I

ADMINISTRATION OF THE GOVERNMENT

Title VII

CITIES, TOWNS AND DISTRICTS

Chapter 41

OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS

Section 11

APPOINTMENT TO FILL VACANCY IN TOWN OFFICE

Section 11. As used in this section, the term "vacancy" includes a failure to elect. If a vacancy occurs in any town office, other than the office of selectman, town clerk, treasurer, collector of taxes or auditor, the selectmen shall in writing appoint a person to fill such vacancy. If there is a vacancy in a board consisting of two or more members, except a board whose members have been elected by proportional representation under chapter fifty-four A, the remaining members shall give written notice thereof, within one month of said vacancy, to the selectmen, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified.

Subject **RE: Fwd: Re: Peter Shedd**
From 4c1pshedd <4c1pshedd@comcast.net>
To Bernardston Selectboard
<bos@townofbernardston.org>
Date 2023-10-30 13:50



Or can I continue as a administrative chief, calls handled by asset chief and officers. This is what northfield did(I believe), and that was the reply from FCAM (FIRE CHIEFS ASSOCIATION OF MASSACHUSETTS) that I could still hold the administrative assignment. Which would be better for the department, in my opinion. Not to mention not such a slap in the face to me, being relieved of duties, for what doing my job. Over a law that even our senator office said has never been contested. Seems a little extreme, if they want Me out just say so and stop torturing me, and the department.

Peter

Sent via the Samsung Galaxy S20 FE 5G, an AT&T 5G smartphone

----- Original message -----

From: Bernardston Selectboard <bos@townofbernardston.org>
Date: 10/30/23 11:05 AM (GMT-05:00)
To: Peter Shedd <4c1pshedd@comcast.net>
Subject: Fwd: Re: Peter Shedd

Hi Peter,

In response to your question yesterday, this is what I heard from Donna.

Lou B.

Louis Bordeaux

Town Coordinator

Town of Bernardston

38 Church St., PO Box 504

Bernardston, MA 01337

Phone: 413-648-5401

----- Original Message -----

Subject:Re: Peter Shedd
Date:2023-10-26 12:28

Brian Keir

Agenda
29 Nov

From: Brian Keir <brkeir@msn.com>
Sent: Monday, October 30, 2023 6:08 PM
To: Brian Keir
Subject: Fwd: BES Septic Issues
Attachments: invoice_8720.pdf

Sent from my iPhone

Begin forwarded message:

From: Brian Keir <brkeir@msn.com>
Date: October 10, 2023 at 2:18:32 PM EDT
To: Bernardston Selectboard <bos@townofbernardston.org>
Subject: Fwd: BES Septic Issues

Lou

Can you please send this along to the others. Thanks

Sent from my iPhone

Begin forwarded message:

From: "Burns, Jordan" <burnsj@pvrsdk12.org>
Date: October 10, 2023 at 11:54:31 AM EDT
To: Brian Keir <brkeir@msn.com>
Subject: BES Septic Issues

Hi Brian,

I am reaching out regarding the septic issues at BES. Gretchen originally emailed about the issue on September 20, 2023 (see email below). The pipes are no longer backing up into the kitchen, so that is the good news.

The bad news is that it cost almost \$20,000 to replace the equipment. Please see attached invoice.

When you have time, I would like to sit down and discuss how to proceed. Specifically, I would like to discuss what portion of this project is town responsibility, and what portion is the district's responsibility.

I understand that the pumps were just replaced last year, and that user error created the need for replacement this year. With that being said, we only budgeted \$29,000 for maintenance at BES for the entire year. I am sure you can understand why I would like to discuss this issue.

Quabbin Well And Pump Service Inc.

P.O.Box 33
Belchertown Ma.
01007
quabbinwell@gmail.com
quabbinwellandpump.com
(413) 323-5393
413-323-5493

Invoice

Invoice No: 8720
Date: 10/04/2023
Terms: NET 0
Due Date: 10/04/2023

Bill To: Bernardston Elementary
licatag@pvrsdk12.org
37 School Rd
Bernard'ston, MA, 01337-9443
(413) 334-9582

Description	Quantity	Rate	Amount
3 phase duplex sewage panel	1	\$8,100.00	\$8,100.00
Champion 3 phase 230 volt1 hp cpsef193	2	\$4,800.00	\$9,600.00
Crane and labor	1	\$1,000.00	\$1,000.00
		Subtotal	\$18,700.00
		Total	\$18,700.00
		PAID	\$0.00

Balance Due \$18,700.00

Notes

New pumps ingested part of a mop head and multiple tampons. The pump chamber needs to have 2 filters installed. This is non warrantable . No staff should be flushing sanitary products down the toilets or janitors putting mops in the toilets. As a result the new pumps and old panel were damaged beyond repair.

Photo 2

