

## BOARD of SELECTMEN SPECIAL MEETING – MAY 27, 2011

TOWN HALL/LARGE CONFERENCE ROOM – 9:00 A.M.

### UNREVISED/UNAPPROVED MINUTES

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These minutes are a general summary of the meeting and are not intended to be a verbatim transcription.

In attendance: R. Marconi, A. Bodner, M. Kozlark, D. Masters  
Via Telephone: B. Manners (entered meeting at 9:36 am)

### Agenda

1. Set Special Town Meeting Date for Old Stagecoach Road Open Space Acquisition
2. Executive Session: Schlumberger Update

#### 1.) Set Special Town Meeting Date for Old Stagecoach Road Open Space Acquisition

R. Marconi called the meeting to order at 9:12 am, inviting Conservation Commission Chairman Benjamin Oko to the table. R. Marconi explained the reason for the meeting this morning is to set a town meeting date for the Old Stagecoach Road open space acquisition. B. Oko stated that he received a phone call last night must be called before the June 24?? closing date.

Attorney stated that owner not willing to extend contract date.

Ben Oko stated it was suggested by A. Bodner that both the purchase and the cell tower lease could be simultaneous. It seems confusing to vote to purchase the property knowing that there would be a lease of the cell tower and hold votes at two separate times. It would be helpful to have both at the same time, and that the vote on the property include the understanding that a cell tower would be placed on it.

R. Marconi clarified that at one point we were looking at a parcel on Old Sib Road which would have to be accessed through New York State. He met with New York representatives, but the land was deed restricted. It was proposed to ask the land donor if they lift the deed restriction, but the Conservation Commission would not like to pursue this. Other people would not consider doing this in future. A. Bodner stated that this is a decision for the donor to make.

Ben Oko responded that it is not a simple matter to change a deed restriction. Regarding open space, Conservation considers it bad practice. In this case the Conservation Commission is acquiring the land with the plan that the cell tower is part of the purchase agreement.

M. Kozlark clarified that we need to make very clear what people are voting on.

R. Marconi stated that if we don't get approval to erect the cell tower, the agreement states we can sell the number of building lots necessary to recoup the \$350,000 spent for the property.

D. Masters stated Town wanted to recoup the investment; if money is going out, we must ensure that we will also have money coming in. We would sell whatever number of lots are necessary to recover the money.

A. Bodner stated that the Town should continue to pursue the Old Sib Road parcel; there is a public interest here. The property should not be dismissed because of the deed restriction.

Ben Oko stated the piece of land on Old Sib is a red herring. The access is through NY state, making it very difficult. In addition, we would be moving the question to another part of town. That neighborhood has concerns too.

R. Marconi stated the density of houses on the Old Sib parcel is much less.

Ben Oko stated changing deed restrictions does not work as a strategy.

A. Bodner stated he is not supportive of sequential votes and that he would like to be guaranteed a payback. We should not be abandoning the other site on Old Sib Road; it sounds like it is worth pursuing.

B. Manners is comfortable with the decision the Board made last week. R. Marconi stated Mr. Pellicione agreed to an extension to June 24. If the vote is defeated, there will be consternation.

R. Marconi stated we would like to look at alternative locations.

M. Kozlark stated the question is whether we want to spend \$350,000 to erect a cell tower, not to preserve the ridge. There are people who would like to preserve the ridge, but that is not what is going to be the deciding factor.

B. Oko stated there are a number of people in town who would like the open space as well as a cell tower erected. There is a mixture.

M. Kozlark asked what would be next steps if the vote goes down. B. Oko replied that if that happens, the contract is dead. We don't have a next step at this time. Another idea that was mentioned yesterday was that the neighbors would like to keep the property as open space and that they would like to purchase it on their own.

A. Bodner questioned if it goes to a Town Meeting and is approved, and for whatever reason a cell tower is not built, the Conservation Commission might be in a situation where it would have to sell more parcels.

R. Marconi discussed the process. We held a Public Hearing and there was no question that the speakers were 4-1 against this. Why do we proceed with a town meeting when the overall consensus is against? It contradicts the democratic process.

B. Oko stated that the public hearing does not substitute as a vote. You have different motivations of people that attend the public hearing and then go to vote. I would like to have the Town vote about this. Let's have a process. I have lots of people calling me asking what happened to the vote? I think it is undemocratic not to hold the vote.

D. Masters agrees with Dr. Oko—the purest form of democracy is the town meeting. Everyone gets a vote.

B. Manners agrees with Di in general. If we are going to have a vote, the questions need to be combined.

A. Bodner agrees with Di and Ben. He has heard much support for the cell tower. If a vote occurs, it must be very clear what it is for. We are not in a position today to set a date for anything.

Discussion ensued about the agreement – what is a reasonable amount of time to recoup the money? Two years?

**D. Masters moved to set date of June 8, 2011 for a Public Hearing and June 22, 2011 for a Special Town Meeting to purchase 28.8 acres of land from the Pellicione Partnership for the purpose of building a cell tower on the property, contingent upon the Conservation Commission Memorandum of Agreement. Motion was seconded by M. Kozlark.**

B. Oko stated the seller is not flexible on their date; they have to renegotiate their mortgage on July 1.

B. Manners asked that given the revised purpose of the town meeting (covering the lease and the open space), would we have to hold a public hearing first. R. Marconi responded yes, it would have to be ten days before the special town meeting.

D. Masters asked if this will change the process that we have to go through. R. Marconi replied no.

A. Bodner opposes the motion. The memorandum of agreement with Conservation Commission is not correct. Before supporting the June 22 town meeting date, we need to look at any revisions of the memorandum of agreement with Conservation. We should shoot for the Town Meeting to be held on June 22, but vote formally on this date at the June 1 Board of Selectmen meeting after the Conservation Commission comes back before us with the agreed upon MOA. D. Masters stated that the motion is based on the memorandum of agreement as it currently stands. Discussion ensued about whether to withdraw the motion. It was decided

R. Marconi read a letter from Mary Walsh, Aspen Ledges Road resident. Ms. Walsh stated disappointment about the 5/27/11 meeting being held on such short notice. Urged the Board of Selectmen to follow charter and make very clear its intentions of what the vote will be for.

D. Masters stated she will not withdraw motion; requested M. Kozlark not withdraw her second. Timeline is already tight; we need to move forward.

Resident Mark Kovack, Aspen Ledges Road stated the vote today is contingent upon a phone call from Mr. Pellicione last night. The vote on May 25 was changed because of this same person. There is a perception of the process being manipulated. Consider the source.

Ed Alvarez, Spire View Road—this is very speculative in nature. People need specifics and a clear objective. There are many moving parts and appreciate the Board of Selectmen getting clarity.

D. Grogins, Town Counsel was reached via telephone and confirmed the time line including the closing date.

Public suggested that the annual income from the cell tower is not \$100,000--it can be a range. Think the public has not been told it is a range.

R. Marconi stated cell tower companies told them that the first carrier is guaranteed then other companies would follow suit; this is standard operating procedure. \$100,000 is based on what we are receiving on police cell tower.

Eileen Hackett, Rock Crest Drive—what is cost of the loan of \$350,000 per year? A. Bodner responded it is approximately \$30,000 per year if the money is bonded.

Bruce Hackett, Rock Crest Drive—who is guaranteeing the minimum? Are they putting up a bond for this? Because if you don't have a security, they could go belly up, then you'd have nothing. Also, the number of 5 carriers on the pole is highly optimistic. Do cell tower companies have contracts with carriers? What about when they merge? Does the contract survive merger? R. Marconi replied that the contracts would have to run out.

Jason Albrecht, Spireview—what is the Board's view on the other property? I don't understand why the Conservation Commission is running the show.

R. Marconi stated based on the Conservation Commission's decision to not pursue lifting the deed restriction with the donor, I have suspended conversations. Unless the Board of Selectmen says continue down that road, I would suspend.

Chris McQuilkin—can town go to the siting council and state that we are interested in parcel and the Siting Council can override the Conservation Commission? It seems like matter of public safety and might override the feelings of the Conservation Commission.

R. Marconi stated he would rather have a more amiable relationship with the Conservation Commission and have a mutual relationship with one another.

Debra Franceschini, Spire View—language/wording to public must be talked about. Turning this into a standalone cell tower deal is not fully what the purchase is about. There will be an open space acquisition as well.

R. Marconi stated that no matter the call of meeting is, the explanation would include all issues.

Chris McQuilkin—seems like first two meetings were canceled because there was not a meeting of the minds. By June 27 there still may not be a meeting of minds. R. Marconi responded we may never agree, but the majority rules in democracy.

A. Bodner would prefer to have this vote on June 1 after B. Oko comes back with agreement.

B. Oko stated he does not think there is a problem with the Memorandum of Agreement if the intent is to go forward with the cell tower. In the event the cell tower is not approved, the Town expects full recovery of \$350,000.

Resident asked B. Oko how much support do you see in the community for the cell tower?

B. Oko responded it is anecdotal; people that we asked to support the open space, those people have generally been accepting of the idea that there will be a cell tower. He has been approached by these same people who ask him “did we get our cell tower?”

M. Kozlark stated that she did not wish to withdraw the second.

**Motion carries 5-0.**

**A. Bodner moved and D. Masters seconded the motion to enter into executive session for the purpose of discussing the Schlumberger update at 10:51 am. Motion carried 5-0. (B. Manners via telephone)**

The Board returned to public session at 11:31 am.

**M. Kozlark moved and D. Masters seconded the motion to adjourn the special meeting at 11:32 am. Motion carried 5-0. (B. Manners via telephone)**

Respectfully submitted,  
Wendy Gannon Lionetti