

PUBLIC HEARING & BOARD of SELECTMEN MEETING – JUNE 15, 2011

TOWN HALL/LARGE CONFERENCE ROOM – 7:30 P.M.

APPROVED MINUTES

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, B. Manners, D. Masters

Public Hearing

A Public Hearing will be held on June 15, 2011, 7:00 P.M., Town Hall Large Conference Room, 400 Main Street, Ridgefield, CT to hear comment on the proposal to purchase land on Old Stagecoach Road for the purpose of open space acquisition and a lease for the placement of a cell tower thereon.

R. Marconi opened the Public Hearing immediately following Executive Session regarding Fire Union Tentative Agreement. No vote was taken.

David Grogins, Town Counsel, came forward to discuss the changes in the wording of the proposed lease. Also present to answer questions was Manny Vicente of Homeland Towers, the cell tower tenant on this Wireless Telecommunications Facility Lease. D. Grogins commented on how many of the changes are “cosmetic” changes.

- Section 2d – regarding tenant’s right to negotiate – not a significant problem
- Section 3 – Rent – M. Vicente of Homeland Towers stated that his firm would be putting themselves in jeopardy if they agreed to this. They cannot control the speed in which carriers come on board and according to the agreement, they would be penalized the third year if all the carriers have not signed up. This situation may well not even happen and Homeland Towers feels confident that the cell tower will quickly become full. But to have such a guarantee in the lease puts them in a possible situation, where they will not get the desired return on their investment. D. Masters stated how the FEC prohibits one carrier from renting all the spots on the cell tower. It is the responsibility of the landlord to not allow one carrier to take up all the spots. A. Bodner asked D. Grogins if there is a reason why the gross rents are not defined in the lease. The answer is no. M. Vicente responded that there is no problem defining gross rents. All the rents coming in are gross rents. They do not have market area agreements. Every site is negotiated individually.
- Section 4c – Tenant has the right to terminate the agreement if reports related to Phase I investigations on the property be unacceptable. The 90 day time limit is fine.
- Section 7 – Maintenance, Repair and Removal - M. Vicente stated that his company is in agreement with the stipulation that upon termination of the lease, Tenant shall remove the tower and base to one foot below grade unless otherwise specified; such removal shall be to the extent that the Landlord will be able to re-vegetate the ground.
- Section 9 – Termination The Tenant has to commence construction by two years from the date when the agreement is signed
- Section 9b – The carriers need this language in their leases. They are the sub-tenants and they need this wording to protect future scenarios from occurring.
- D. Masters stated that D. Grogins as Town Counsel should decide when the agreement is satisfactory. The point of the Public Hearing is to make changes, address our needs, and go forward. We have an extra \$6 million in umbrella insurance coverage. D. Grogins will make the language changes discussed and bring a revised copy of the lease back to the BOS for review.

At 7:30 p.m. the Public Hearing was opened to comments from the public.

Scott DeYoung, Caudatowa Drive, stated how there is no defined height for the tower in the lease. Doesn't this need to be in the lease? R. Marconi responded that the tower cannot exceed 150 feet. D. Grogins stated how we have the site plan approved. There is no audit provision. We do not know what income is based on what rent. All sub-leasees enter into full disclosure by sharing their leases. Every project is individual. The cost to develop a site varies from site to site. We just know the norms.

Bill Seepson???, 7 Short Lane, stated how he has no doubt in mind as to the care and quality taken by the BOS with regard to this project. Do we really need this cell tower? There have been no serious medical issues as a result of the lack of a cell tower in this part of town. This tower will have a negative impact on the property values in the area. Will the Town make the property owners whole? The residents in the area do have serious concerns. We know you do care and are trying to do the best for us. R. Marconi responded that we really do need a cell tower in that area for emergency responders – EMS, police, fire, and highway departments. The principal of the high school definitely wants a cell tower in this area of the town. Regarding property values, there are feelings on both sides of this issue. It is hard to prove what impacts property values. No provisions have been made nor funds set aside to compensate property owners.

Dom D'Addario, Taunton Lake Rd., asked if the BOS are in full agreement on this lease? Yes, this is the lease that will be used for the carriers who are interested. There will be a Town Meeting with a vote on this resolution on June 22nd.

Samantha Eagle, Sugar Loaf Rd., stated how there has been no research regarding health issues. Instead of a cell tower, an MCell could be put on the high school. The cell tower issue is a huge consideration for property values. Property appraisals should be done before going ahead with this project. This is definitely going to lower tax values in the area. The education budget was slashed and slashed, and now we are being asked to spend \$350,000 of tax dollars to purchase land from which we will not realize a return quickly enough.

Paul Payne, Aspen Ledge Rd., asked if the vote on June 22nd is going to happen? What is the procedure for this meeting? Voters will have to be registered and their registrations will be checked. Property values will be affected. What if anything is going to be done about this?

R. Marconi stated that it will be a paper ballot vote and all taxpayers can vote even if they do not currently reside in Ridgefield. There is currently no plan in place regarding property values. What is the recourse? Appeal on the investment.

R. Marconi read the Legal Notice for the Special Town Meeting – Town of Ridgefield – June 22, 2011 to be held at 7:30 p.m., at Veteran's Park School Auditorium, 8 Governor Street, Ridgefield, CT.

1. *To discuss and vote upon the following resolution, as recommended by the Ridgefield Board of Selectmen:*

a) RESOLVED, that the Town of Ridgefield, be and hereby is, authorized to purchase 28.8 acres of land on Old Stagecoach Road, more particularly described as follows:

ALL THAT CERTAIN LOT or parcel of land, together with the buildings and improvements thereon erected, lying and being in the Town of Ridgefield, County of Fairfield and State of Connecticut, being shown as Parcel D-2 on a certain map entitled "Resubdivision Map Showing Section B-The Ledges of Ridgefield, Ridgefield, Connecticut", which said map was filed in the

Ridgefield Town Clerk's Office as Map No.8830, reference being made thereto for a more particular of the premises.

b) FURTHER RESOLVED, that the sum of \$363, 332, be and hereby is, authorized as an additional appropriation to pay for a portion of the purchase price for said property; and it is

c) FURTHER RESOLVED, that the Town of Ridgefield, be and hereby is, authorized to enter into a lease for a "Telecommunications Facility" to be located on a portion of the aforesaid premises; and it is

d) FURTHER RESOLVED, tht the First Selectman, be and hereby is, authorized to take any and all actions and execute required documents necessary to effectuate the aforesaid transactions.

2. *To take such other action as is necessary to accomplish the purposes set forth above for which this meeting is noticed.*

Phyllis Romano, Rolling Ridge Rd. asked how could the Town inflict this on so many in the Knolls Valley area? Property values will decrease by about 30%.

Mary Walsh, Aspen Ledge Rd., stated how AT&T is offering min-towers free. These could be installed at the high school. She then read her prepared paper with regard to the cell phone impact on scenic beauty. Our town fights hard to maintain its scenic beauty. We try to make Ridgefield a scenic destination.

John Katz, Old Ridgebury Rd., stated how at the last hearing it was suggested that there be a demolition or removal clause in the leases, as eventually new technology will supplant cell towers and they will be obsolete. M. Vicente stated that his company will agree to a demolition and/or removal clause. If a cell tower becomes obsolete, then the carriers will not be there.

Jason Albright, Spire View Rd. stated how he fails to see the Conservation Commission's role in this. Why can they do a land deal? Are they not State regulated? R. Marconi responded that not until they did a search of the deed for the property, did they find the language that the property was to be kept as open space in perpetuity. The Town already owns the land next to it with no restrictions. Funds have been donated to the Conservation Commission for the purpose of purchasing open space. Only the \$350,000 is Town tax dollars.

Mary Walsh, Aspen Ledge Rd., asked if a MicroCell would not work for just the high school? She has visited colleges that have 911 boxes. Was such an idea researched and priced? R. Marconi replied no because the whole Route 116 corridor needs to be considered and not just the high school.

The Public Hearing was closed at 8:15 p.m.

Board of Selectmen Meeting Agenda (*immediately following Public Hearing*)

1. Conservation Commission:
 - a) Reappointments
 - b) Interview: Terry McManus
2. Ridgefield Arts Council Annual Report: Alison Greeley
3. Vendor Permit Application: Breck Girls Ice Cream – Richard Breck
4. STEAP Grant Application Resolution
5. Selectman's Report

6. Approval of Meeting Minutes

R. Marconi called the BOS Meeting to order at 8:17 p.m., immediately following the Public Hearing.

1a. Reappointments

The five members of the Conservation Commission eligible for reappointment came forward to express their interest in continuing to serve on the Commission: Dave Cronin, Kitsey Snow, Carroll Brewster, Alan Pilch, and Susan Baker. R. Marconi indicated that information from other towns regarding reappointment and term limits was just received and it was too late to put this issue on this evening's agenda. It appears that two consecutive terms and then a break is most often the case. An individual can then reapply. M. Kozlark that she just wants to be sure that those who wish to serve are informed of any vacancy on committees or commissions. We need to advertise all the time including when reappointments are possible. Residents who are interested should feel free to come forward and express their volunteerism.

B. Manners stated how she does not disagree but it is often insulting if a current member has been an active member, wants to be reappointed, and a new volunteer is selected instead. R. Marconi stated how he has asked committee chairs to provide feedback if some of their members do not attend meetings regularly.

A. Bodner asked the Conservation Commission members for their opinion regarding the current property under discussion which was donated five years ago. They are going to ask the donor about the possibility of putting a road thru the property. Is this appropriate? Susan Baker stated how she feels the Commission is bound by the deed and should honor the donor's requests. The donor received a tax benefit for the donation when they conveyed the property to the town. The donor no longer has a valid connection to the property. The donor has lost all rights to make changes. By returning to a previous donor for a change in the terms, this would make it difficult to obtain future property donations. Donors will not feel satisfied that their wishes will be honored.

A. Bodner moved and D. Masters seconded a motion to reappoint to the Conservation Commission for an additional three-year term, effective 2/1/10 - Alan L. Pilch and Ann C. (Kitsey) Snow, and an additional three-year term, effective 2/1/11 - Susan Baker, Carroll Brewster and David Cronin. Motion passed 5-0.

1b. Interview: Terry McManus

Ms. McManus came forward to express her interest in serving on the Conservation Commission. There is one vacancy on the Commission. Monnie Newman was interviewed at the June 1st BOS Meeting. R. Marconi read the May 26, 2011 letter received from Conservation Commission Chairman, Benjamin Oko expressing the Commission's support for the appointment of Ms. McManus. She has served as a volunteer Ranger at the Florida Refuge. She has special training as a master gardener with an interest in the environmental disturbances caused by invasive plants and insects. Ms. McManus organized a 300th anniversary letterboxing project that involved open space, and she has the time to devote to the Commission.

A. Bodner asked Ms. McManus her philosophy regarding use of open space for public needs, and the current cell tower discussion. Ms. McManus stated that she is not against contacting the donor to see if they are in agreement with the proposed use of open space for a public need. Every situation is different.

M. Kozlark asked Ms. McManus to elaborate about this proposed open space purchase and the ridge line. Ms. McManus indicated that she would prefer to not use taxpayer dollars, but this cell tower issue is important enough to seek the taxpayer's support. M. Kozlark asked if there are any other Committees or Commission which interest her. Ms. McManus responded that the Conservation Commission is in line with the volunteer activities she has been involved with.

B. Manners asked Ms. McManus if she was at all interested in involvement in the arts? Ms. McManus responded that the Conservation Commission is what fits her expertise. She would like to see the Conservation Commission become more active in the community. The upcoming 50th anniversary of the Commission would be a great opportunity for public relations and fund raising.

D. Masters commented on the relationship between land use in Ridgefield and the Conservation Commission. The Commission walks property and provides feedback to Planning & Zoning. Ms. McManus indicated her awareness of the time commitment involved in assessing properties.

D. Masters stated how the other applicant, Monnie Newman, has a unique skill set that could be helpful to the Commission. Ms. Newman has excellent credentials and would be a good contributor. B. Manners agreed that Ms. Newman needs to be encouraged to come forward to volunteer for another opening.

B. Manners moved and M. Kozlark seconded a motion to appoint Teresa A. McManus to fill the vacancy on the Conservation Commission for a three-year term. Motion passed 5-0.

2. Ridgefield Arts Council Annual Report: Alison Greeley

Alison Greeley, Chairman of the Ridgefield Arts Council, came forward to present the Ridgefield Arts Council 2011 Annual Report, submitted to the BOS on June 8, 2011. They currently have 9 members with 2 vacancies, and 16 auxiliary members. Alison explained how auxiliary members work and it is a way to keep additional people involved. Many of the auxiliary members are prior Arts Council members, but perhaps they now travel and have other commitments.

The Ridgefield Arts Council promotes community development making the arts an interactive experience, produces and distributes a quarterly Arts Calendar, supports professional development by organizing workshops and guest lectures on issues relevant to artistic endeavors, fosters collaboration between arts organizations and individual artists, provides networking opportunities for both established and emerging arts organizations and individual artists, and explores grants and funding sources for the arts.

Ms. Greeley commented on how this is the 4th year for the artists networking event, the success of "Behind the Scenes" where art groups together honor their volunteers, and last year's Cultural Festival. They have received grant funding again with grant matching from the town – Thank You! R. Marconi stated how the Arts Council has been involved with the 911 Memorial as well. He expressed a thank you to everyone on the Arts Council for their continued service to the town.

3. Vendor Permit Application: Breck Girls Ice Cream – Richard Breck

Richard Breck and his daughter, Sarah Gartland, came forward to support their vendor permit application for the Breck Girls to sell ice cream on their Good Humor truck. Mr. Breck purchased the truck this past winter and this is a "whole family" endeavor. They agreed to use good judgment in sharing locations with other vendors, and understand how a \$50/week permit is needed from Parks & Rec to sell food at Ballard Green for the CHIRP concert and at Great Pond.

Andy Bodner moved and D. Masters seconded a motion to approve the vendor permit for Richard F. Breck, Jr., and Sarah Hobens Gartland to operate and sell ice cream with their Good Humor truck. Motion passed 5-0.

4. STEAP Grant Application Resolution

R. Marconi stated how the two areas under consideration are the Bailey Avenue parking lot and a traffic light on Route 7 by the Toll Bros. access road and Prospect Ridge. This is a very bad intersection. J. Frey has indicated that it might be better to separate the application into two distinct projects. The Bailey Avenue project will help with economic development and should be the first priority.

B. Manners moved and A. Bodner seconded a motion to waive the reading of the proposed STEAP Grant Application Resolution. Motion passed 5-0.

B. Manners moved and M. Kozlark seconded a motion to approve the resolution dated June 13, 2011, authorizing First Selectman Rudy Marconi, to execute on behalf of the Town of Ridgefield the municipal corporation grant applications with the State of Connecticut Office of Policy and Management for financial assistance under the Small Town Economic Assistance Program (STEAP) to complete various site improvements within the Bailey Avenue and Prospect Street parking areas. Motion passed 5-0.

5. Selectman's Report

- Bill Marcus has resigned from the EDC. Perhaps Monnie Newman might be interested in the EDC. She did indicate interest in the Youth Commission.

6. Approval of Meeting Minutes

The June 1, 2011 BOS Meeting minutes were reviewed but no approval vote was taken pending amendment.

D. Masters moved and B. Manners seconded a motion to adjourn the Board of Selectmen Meeting at 9:35 p.m. Motion passed 5-0.

Respectfully submitted,
Janet L. Johnson