

**TOWN OF GREAT BARRINGTON  
SELECTMEN'S MEETING  
MINUTES  
MONDAY, NOVEMBER 14, 2011  
6:00 P.M. – TOWN HALL**

**PRESENT:**           STEPHEN BANNON  
                          ANDREW BLECHMAN  
                          ALANA CHERNILA  
                          DEB PHILLIPS  
                          SEAN STANTON  
                          KEVIN O'DONNELL, TOWN MANAGER

**1. CALL TO ORDER**

Sean Stanton called the meeting to order at 6:00 P.M.

**2. TOWN CHARTER WORKSHOP WITH VARIOUS BOARDS. (DISCUSSION)**

Sean Stanton said that this conversation is to get information from any other town boards or others in town who may have read the charter. This will help the BOS decide what to look at changing in the charter and the process in which to make those changes.

Steve Bannon suggested that the Board gather information and not make a decision about how to make the changes at this meeting. He said that he would like to see another meeting set to discuss this topic.

Andrew Blechman said that he does not see a lot in the charter that needs to be changed except the lack of clarity about the library. He said that the charter is not complicated and is functioning well.

Alana Chernila said that she would like to explore, in more detail, how the power is divided among the Town Manager and the Town Boards. Alana said that she would like to look at who is elected versus appointed and figure out the logic behind it.

Deb Phillips said that she also is concerned about the difference between elected versus appointed. She would like to know the rationale behind when the department heads are responsible for hiring staff versus the Town Manager hiring staff. She wants to see some consistency in this area. She would like to know the chain of command in all departments.

Karen Smith – Parks and Recreation Commission – Karen said that she feels that it is 'stupid' to be sworn in for each committee and position that you are elected to be on. She agreed that it is important to look at appointed versus elected. Karen said that she would like an explanation from those who wrote the charter in 1992 as to why the library was put in limbo. Karen said if someone is elected for a job and it changes, new people should be elected to match the new skill set. She said that the community should decide based on the skill set required, not on history.

Mary Beth Merritt – Agricultural Commission Chairman – Mary Beth said that there should be more participation in the form of citizen advisory. She asked how new people get appointed to the Agricultural Commission and what their input is, as a commission, on these appointments. She asked about the case in which a committee member does not do the work, what can be done about it.

She spoke to section 3E – what the expectations are of the commission.

She said that the Agricultural Commission had not been formed at the time the charter was written so the supervisory role needs to be clarified.

Sean Stanton said that this should be clarified in the Agricultural Commission policies and procedures.

Jonathan Hankin – Planning Board – Jonathan said that the charter seems straight forward. He asked Town Counsel about page C2-G where it says, "doubtful" claims. Mr. Doneski replied that it is an archaic term about a monetary claim against the Town and whether it has merit.

Jonathan asked about the use of the word Selectman versus Selectmen in section 5. (He suggested that they are typos)

Jonathan said that it has been publicized that the Town Manager has a 6 months severance package for early termination which appears to violate Section 5-C-4 where it dictates that the board hire an interim Town Manager.

Mr. Doneski responded that it is not unusual to have a severance package and that there is no inconsistency or violation.

Jonathan spoke about Section 6-B-1 saying that it should talk about Long Range Capital Improvements.

Sean Stanton replied that they have been doing 5 year plans since Kevin arrived.

Jonathan said that it isn't in the charter.

Sean replied that it should be.

Jonathan said that the Library Director and Town Planner do not appear in the area regarding the power of appointment. He said where those town employees work closely with an elected body, those boards should have say over who is chosen.

Sec 6-C-14 – 'Town Manager shall serve as liaison to Town Council' ...he said that the other Board members should have access to Town Counsel.

Section 8-C- the last sentence – 'forfeit pay grade for time and service.' He asked Mr. Doneski to explain.

Mr. Doneski said that this is to protect person(s) who are in an office that may change or be modified by the adoption of the charter. It would indicate that they would not suffer financially by the adoption of the charter.

Bud Atwood- Bud said that the charter states that it is required to have 5 years experience to be Town Manager. Bud suggested that this be changed to 7 years.

Bud Atwood said that there is no follow up on elected committee members. If appointed members don't show up, they are removed. He said this is a reason to have more appointed committees.

Holly Hamer – Library Board of Trustees- Holly said if the charter is revised, an elected committee would be needed. She asked if this committee could be appointed.

Mr. Doneski replied if there is a revision, there has to be an elected body.

Holly asked why the library by-laws are in the town code.

She said that the Library Board of Trustees voted 5-yes and 1-abstain to propose some brief changes to the charter. Those changes were that "and the library department" be added to section 6-2, section 6-6-D, and section 6-C-2.

Holly Hamer said that the school department is a regional school department and has many protections. It also has its own payroll, maintenance, etc. She said that they are not proposing to be identical, but to be a 'hybrid.' She added that the Library Board of Commissioners recommends this. She said that they do not want to exist as an island; they would like the support of the Town but with some independence.

Bud Atwood stated that the reason the Library Board should be appointed is what is going on right now.

Sean Stanton asked Mr. Doneski how big the changes need to be to require a revision.

Mr. Doneski responded that there is no threshold for the amount of changes. If changes were made to the mode of election or appointment, terms of office, a change to how the BOS and Town Manager are elected, or a change to the Town Meeting; there would be a revision needed. He said that an amendment would require a Town Meeting. Mr. Doneski said that a proposal for 'amendment to existing special acts' would require a committee be appointed to review the charter and present the changes at Town Meeting to decide whether to petition legislature.

Steve Bannon asked who appoints the committee.

Mr. Doneski replied that the Selectmen appoint them.

Steve Bannon said that the option to amend to existing special acts is more inclusive and he feels that the citizens should be included.

Mr. Doneski clarified that an amendment includes the 2 steps of Town Meeting and town ballot. The 'amendment to special acts' has less formalities with only one Town Meeting vote to take to the legislature.

Sean Stanton said that it could be on the warrant for the meeting in May and back to a ballot the following year, unless there is a special meeting.

**MOTION:** Deb Phillips to direct the Town Manager to create a draft resolution to create a committee to review and recommend changes to the Town Charter.

**SECOND:** Alana Chernila

**VOTE:** 5-0

Deb Phillips said that the Board should come back with their recommended changes and then decide what process to use.

### **3. EXECUTIVE SESSION**

#### **- CONTRACT NEGOTIATIONS RE: SALE OF OLD FIRE STATION.**

**(M.G.L. c.30A, sec.21(a)6).**

**MOTION:** Steve Bannon to move to go into Executive Session to consider the purchase, exchange, lease or value of real property, and that the chair declare that an open meeting may have a detrimental effect on the negotiating position of the body and to reconvene in Open Session.

**SECOND:** Deb Phillips

#### **ROLL CALL VOTE:**

STEPHEN BANNON – yes

ANDREW BLECHMAN – yes

ALANA CHERNILA – yes

DEB PHILLIPS - yes

SEAN STANTON - yes

**VOTE:** 5-0

\*Chair stated that an open meeting may have a detrimental effect on the negotiating position of the body.

### **4. APPROVAL OF MINUTES:**

November 1, 2011 BOS and FINANCE COMMITTEE Joint Meeting.

**MOTION:** Deb Phillips to approve November 1, 2011 BOS and FINANCE COMMITTEE Joint Meeting minutes.

**SECOND:** Steve Bannon

**VOTE:** 5-0

### **5. SELECTMEN'S ANNOUNCEMENTS/STATEMENTS:**

Alana Chernila requested an update regarding BCAC.

Alana Chernila said that she heard reports about the parking task force. She recommended that information and when the changes will take place be communicated as widely as possible.

Steve Bannon asked that the Town Manager have an update at the next meeting regarding the proposed solar farm.

Steve said that Town Meeting passed several technology items and asked that the Town Manger give an update about if they have been installed.

Steve asked for a list of conferences that department heads are being sent to and the cost for each; for budget analysis.

Deb Phillips asked when the Board will have an update on side streets.

Kevin O'Donnell responded December 12<sup>th</sup>.

Sean Stanton thanked all who came to talk about the charter; especially the other Boards.

### **6. TOWN MANAGER'S REPORT:**

#### **A. TOWN ATTORNEY'S RESPONSE ON THE ZBA MATTER. (DISCUSSION)**

Sean Stanton said when the Board sat in the meeting with Ed May and supported the position of the ZBA officer; his mistake was that he didn't ask the Board to vote to hire Town Counsel for the ZBA officer. He said that the ZBA has closed its public hearing, so it is too late.

Alana Chernila said that she is happy to take some of the responsibility but not all. She said that the Board asked Kevin O'Donnell and Mr. Doneski what should be done and they were not advised to vote on the matter. She said that she felt misled.

Mr. Doneski replied that Mr. May was not un-represented because he had the benefit of Town Counsel advice in respect to the actions he has taken. The integrity of the process is the role of Town Counsel. He said that he understands the confusion and that he did not assume the role as 'advocate' because that is not how things are done.

Sean Stanton asked why the appellant had a lawyer.

Mr. Doneski responded that the role of counsel, the typical process is that when there is an administrative hearing, the Board is going to make the decision and that Board may then have their own decision subject to review. Those decisions are always defended by Town Counsel.

He apologized if the Board felt misled and said he would have attended any meetings if directed by the Board. He said that this is still not foreclosed. The ZBA is deliberating and although the public hearing is closed, at the end of the hearing the appellant may submit a proposal that the Board can consider and respond to.

Sean Stanton said that it is absurd to have conditions on an appeal.

Mr. Doneski said that this is not common. The Board should decide if the conditions are acceptable.

Deb Phillips said that the Board had the conversation, while you were present, that they made a statement in support of the ZBA officer and didn't need to send a letter to that fact.

Mr. Doneski said when the matter of the appeal came up, it was presented to him that the Board did not want to take a position so he inferred that the Board did not want to get involved in the way that he prescribed or that there was some other reason that the Board didn't want to take a formal position on the matter.

Sean Stanton responded that they did not take a formal position because the zoning by-laws had changed to say that it is not the BOS prerogative to comment. He said the Board felt that they had not been presented with the facts yet.

Deb Phillips asked when the appellant proposes conditions, should the Board have Town Counsel available to Ed May to counter the presentation.

Sean responded that Mr. Doneski should advise the ZBA.

Steve Bannon said that there is a problem with communication and that the Board was clear on this. He said that it was a lie to say that they did not take a position.

**MOTION:** Steve Bannon to authorize Kevin O'Donnell to acquire special legal counsel to serve as an advocate on behalf of the Building Inspector in regards to the cease and desist order that he has issued in regard to the O'Brien matter.

**SECOND:** Deb Phillips

**VOTE: 5-0**

**MOTION:** Steve Bannon to amend the motion to include the Town Chair in the process

**SECOND:** Deb Phillips

**VOTE: 5-0**

Mr. Doneski apologized.

B. Kevin O'Donnell said that he will meet with the "Occupy Berkshires" Group about having a camp-out behind Town Hall this weekend. There will be a meeting tomorrow with the Police Department, Fire Department, and Public Works to lay out the rules. 15-20 people are anticipated.

C. Kevin announced that the winter snow parking ban is in effect from Nov. 15- April 1.

D. Kevin said that various service groups will meet with BCAC on Nov. 21 at 1:30 at CHP and he will get the update. Applications are being accepted for fuel assistance. There are temporary office hours for BCAC and more information can be found on the website under fuel assistance.

Karen Smith said BRIDGE, Construct, and KareBear are all on board. She said that they are going to talk about how to set up South County for Christmas for kids and teens. She said that there have been many duplicates and some children left out, so she would like to set up a 'clearing house' for next Christmas so there is one way to know who the people are. She said that she would like to put the heat on BCAC to get everyone involved.

Steve Bannon said that the Thrift Shop is something that many people have spoken to him about. He said that South County needs to take care of itself.

E. Kevin O'Donnell said that all of the final clearances are back for the new library director. Kate Deviny will start on December 1 and he is looking forward to her joining us.

## **7. CITIZEN SPEAK TIME:**

### **A. LIBRARY BOARD OF TRUSTEES.**

Holly Hamer said that they are very happy to have the new director starting in 2 weeks.

### **B. SHAWN BAKER – REQUEST TO DESIGNATE GREAT BARRINGTON A “COMPASSIONATE CITY”. (DISCUSSION/VOTE)**

Shawn Baker asked the BOS to sign a charter to make Great Barrington a “compassionate city.” Shawn gave many examples of changes that other towns have made under this title. She said that the purpose is to unify and inspire citizens and to ask all to live under this high ideal. The ultimate intent is to make us aware of compassionate living. She said that it is up to the citizens to make changes and to be creative in this aspect.

**MOTION:** Deb Phillips to put this request on the warrant for Town Meeting

**SECOND:** Steve Bannon

**VOTE:** 4-0-1 Andrew Blechman abstains

**MOTION:** Alana Chernila to publicly support this request

**SECOND:** Deb Phillips

**VOTE:** 4-0-1 Andrew Blechman abstains

Phil Pechukas -17 Round Hill Rd. – said that he leaned about the solar farm and expressed his concern. He said that the installation will include 12,000 elevated solar panels on farm land. He said that there would be no direct benefit to the Town or its residents. He said that he can't imagine that this is the best site and least obtrusive for this installation. He asked the Board act with great haste and deliberation.

Sean Stanton said that they will talk about it on November 28 and will get more information and answers. He said that the Planning Board has the site plan review on December 8<sup>th</sup>.

Jonathan Hankin said that they will have to go through a MEPO review and will then meet after.

Tom Warner – 19 Seekonk Rd – Mr. Warner stated that Seekonk was a village at one point. He said that it is astronomically outrageous that a plant would come into a beautiful area. He said that it will be ugly, destroy property values and is dangerous.

Mr. Warner said if this is allowed to go through, others will follow.

Michelle Loubert- Michelle recognized Christopher Young and Isaiah Kushman for painting the side of the Ethan Culleton building on the corner of Depot St. and Front St. She said that they have taken this building and have created something beautiful. She said that it doesn't take much to brighten up the community.

Bill Shein – Alford – Mr. Shein represented Occupy Berkshires and announced that there will be an open demonstration called a general assembly that will last 24 hours; 12 pm Saturday – 12 pm Sunday.

Rob Churchill –Division St and Seekonk- Mr. Churchill suggested that the BOS go through a thorough process in considering the solar farm. He said that he is pro-renewable energy but is also pro-agriculture. This is destroying agriculture for renewable energy. He said that livelihoods are around tourism.

Andrea Koufic said that Great Barrington has been able to plan ahead of the curve; for example- the cell phone towers. She asked the BOS and the Planning Board to 'take a page from the book that was used for the cell phone towers.'

David Magadini said that he collected signatures for a petition for 23 hour 59 min. voting. This will be an amendment to the Town Charter. He said this amendment won't inconvenience anyone. He explained the reason for the voting time.

#### **8. LICENSES OR PERMITS:**

- A. **CONTINUATION** OF HOLLY HAMER/TRUSTEES OF THE GREAT BARRINGTON LIBRARIES' APPLICATION FOR ONE DAY BEER AND WINE LICENSE FOR DECEMBER 2, 2011 FROM 5:00 PM – 7:00 PM AT MASON LIBRARY, MAIN READING ROOM, FRONT ENTRY. *FEE WAIVER REQUESTED.* (DISCUSSION/VOTE)

Request withdrawn

- B. CHRIS CONSTANTOPOULOS/MYKONOS GRILL FOR 2011 COMMON VICTUALLER LICENSE AT 284 MAIN STREET. (DISCUSSION/VOTE)

**MOTION:** Steve Bannon to approve license

**SECOND:** Deb Phillips

**VOTE: 5-0**

- C. MICHAEL HOTAREK/EASTERN RETAIL PROPERTIES, INC. FOR A REAL ESTATE SIGN LICENSE. (DISCUSSION/VOTE)

Sean Stanton read a letter from the real estate company.

**MOTION:** Steve Bannon to approve license

**SECOND:** Deb Phillips

**VOTE: 5-0**

#### **9. OLD BUSINESS:**

- A. **CONTINUATION** OF AGREEMENT WITH COMMUNITY DEVELOPMENT CORPORATION (CDC) RE: NEW ENGLAND LOG HOMES. (DISCUSSION/VOTE)

Kevin O'Donnell said that he is working with the CDC Director and with HUD to get the amendment modified to allow the abatement of asbestos to allow for demolition.

- B. UPDATE – MAIN STREET RECONSTRUCTION PROJECT.

Jonathan Williams presented the Board with the survey results from the Main Street Reconstruction Project.

He said that 153 surveys were given out to businesses. The results do not represent all of the businesses. He said the concerns were: perceived economic hardship, parking and traffic difficulties, dislike for elements of the design, and need for better communication during the project.

Kevin O'Donnell said that they have not received all of the DOT comments yet. More information is needed on the design exception review.

The state landscape architect visited and comments have been received by him.

#### **10. NEW BUSINESS:**

- A. BOS – APPOINTMENT OF TREE COMMITTEE MEMBER. (DISCUSSION/VOTE)

**MOTION:** Steve Bannon to appoint Maria Olin for a 3 year term

**SECOND:** Deb Phillips

**VOTE: 5-0**

**MOTION:** Deb Phillips to appoint Michael Wise to a 2 year term

**SECOND:** Steve Bannon

**VOTE: 5-0**

**MOTION:** Deb Phillips to appoint Jonathan Hankin to a 1 year term

**SECOND:** Steve Bannon

**VOTE: 5-0**

There is one additional one-year term remaining.

B. BOS – ACCEPTANCE OF MUTUAL AID AGREEMENTS FOR PUBLIC SAFETY (MGL. c.40, sec. 4J) and PUBLIC WORKS (MGL.c.40, sec. 4K). (DISCUSSION/VOTE)

**MOTION:** Deb Phillips to accept the mutual aid agreements

**SECOND:** Steve Bannon

**VOTE: 5-0**

C. DISCUSSION RE: HOUSATONIC MILLS REDEVELOPMENT.

Sean Stanton said that he would like to set up a meeting with David Guenette and Nick Kelley. He said that they have expressed the need for the Town to get involved in the process and to have a master plan. The Town can't pay for a master plan. Sean Stanton said that he would like to know if Mr. Muss is still willing to have a master plan created as a gift for the Town.

Deb Phillips suggested that they explore as a Town what state support is available and what is needed to access it. She said that this information is important to understand what it takes.

David Guenette works with Stefan Greene and said that there is a lot of interest around whether Nick Kelley is cooperating with Mr. Muss and how they can work together so Mr. Muss can go out and get funding for the Town in order for a master plan to be developed. He said that Nick Kelley has had a meeting with Mr. Muss. David said that they created a memorandum of understanding specifying areas of cooperation. 4 out of the 7 mill owners have signed on. He said that it was submitted to Mr. Muss only to get back a request for Mr. Kelley to sign a contractual agreement to work with him. This would give Mr. Muss 'powers' that Mr. Kelley is not comfortable giving to him. David suggested that the Board ask Mr. Muss what he is willing to do and if he will only continue if Mr. Kelley becomes business partners with him. He said this relationship is not necessary for either to move forward. He said that Mr. Muss called for a warrant vote for eminent domain which has had negative consequences.

Steve Bannon said that the Board wants to see if there is common ground to "do good".

He said that nothing will get done if there is constant name calling.

Alana Chernila said that Mr. Muss has said 'without Nick Kelley, I'm gone.' She said that the Board is not a mediator and asked why they are in the middle of this.

Sean Stanton said that the potential is great with Mr. Muss' help.

Deb Phillips said, as a BOS, we care about what happens in Housatonic so it is fine for Sean and Steve to meet with players.

Steve Bannon said that the Board never discussed or considered eminent domain.

Sean Stanton said that the Board is on no ones side. They are trying to figure it out and work it out.

Kevin O'Donnell said that he will research grant options and requirements. He will bullet- point grant programs and will follow up with the secretaries' office in the beginning of the year.

David Guenette said that they will share what they know and learn.

**MOTION:** Deb Phillips to direct the Town Manger to use the staff in any way he needs to in order to get information about what kinds of grant funding, programs and support may be available from the state for development of the mill area.

**SECOND:** Steve Bannon

**VOTE: 5-0**

D. DISCUSSION - SELECTBOARD SELF-EVALUATION PROCESS.

This item was tabled until the next meeting .

E. BOS - DISCUSSION OF UPCOMING MEETINGS IN THE FOLLOWING MONTH.

The next meeting will be on November 28. The Board will look at the December calendar at the next meeting.

**11. SELECTMEN'S TIME:**

Alana Chernila suggested increasing the amount of meetings.

The Board scheduled a meeting for November 21, 2011 at 7:00 pm.

**12. MEDIA TIME:** Trevor Jones asked if the ZBA hearing is closed and what Town Counsel can do to help.

Kevin O'Donnell responded that special counsel will review what would have been offered and he can specify what is good, bad, etc. and the likelihood of it happening. The ZBA can then make a decision.

**13. ADJOURNMENT:**

On a motion by Deb Phillips, seconded by Steve Bannon, the Board adjourned its meeting at 9:12 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Cara Becker".

Cara Becker  
Recording Secretary