

Sturbridge Finance Committee
Meeting Minutes
October 18, 2011
Town Hall
7:00 pm

Meeting was called to order at 7:02 pm with the following members present: Kevin Smith (KS), Prescott (Scott) Arndt (SA), Mary Redetzke (MR), and Mike Serio (MS), Patti Affenito (PA), and Joni Light (JL).

Members Absent: Larry Morrison (LM) and Rich Volpe (RV).

Audience: Shaun Suhoski (SS); Dave Lindberg (DL), Building Inspector; Tom Creamer, (TC), Board of Selectmen chair; Mary Blanchard (MB); Lynn Girard (LG); Mary Dowling (MD), and Erin Jacques (EJ), Conservation Agent, Linda Cocalis (LC), resident.

Special Town Meeting Warrant:

Motion to approve Article 53 General Bylaw Amendment-Design Review Committee is made by SA, seconded by MR. Vote 5-0-1.

AW arrives at 7:08 pm.

Discussion begins on Article 52 Green Communities Program-Adoption of the Stretch Code with DL. DL explains that the stretch code calls for more efficient heating and cooling of residences. This code should decrease the life cycle cost of building. The up-front cost of this program is between \$.80 and \$1.20 per square foot. DL gives an example that it costs approximately \$4,000 to heat a 2,700 sq. ft. home now; with the stretch code innovations in place the cost to heat that same home should be under \$3,500 per year. DL does point out that this program definitely adds to the cost of building but that the savings on energy allow the owner to re-coup those costs rather quickly. KS asks about the benefits to the Town for this program; DL answers that it is one piece of the green community designation. MR asks if solar energy is a part of this program, DL answers no; if it is just for building upgrades. PA asks if this applies to commercial construction, DL answers yes. PA asks what the up-front costs average in commercial buildings, DL did not have these figures. DL explains that this applies to new construction and to renovations that require electrical or heating/cooling up-grades. PA asks if local builders are on board with this initiative, DL answers yes. PA asks why builders would not just do this sort work, DL answers because builders are aware of the economy and they are unwilling to add costs to their projects. DL goes on to say that grant money is used for green upgrades in Town buildings. JL asks if any buildings are exempt from this program, DL answers historic homes. PA asks about whether the program will be a disincentive to business development in Sturbridge due to the increased up-front costs. SS answers that he believes that this will pay a dividend because of lower energy costs. DL says that since this is a state-wide program all communities are facing this hurdle. MR asks where this information is available, DL says it is at the Building Inspector's office and is on the State website. Motion to approve as written made by SA, seconded by MR. Vote 7-0-0.

Article 54 General Bylaw Amendment-Day of Annual Town Meeting: KS states that this article changes the date of the Annual Town Meeting from the first Monday in June to the first Saturday in May. TC says this allows the citizens who signed this petition to be heard. JL makes the point that weekends are always busy; PA wonders if the voters who attend on Saturday will be different than those who attend the Monday evening meetings. TC wonders if the group may be more conservative; MS is willing to allow the vote. TC makes the point that Saturday is the Sabbath day for several religions. SA asks what day(s) other towns hold their meetings. AS makes the point that this is an experiment and the voters can change their minds and go back. KS says that figures from the State are more realistic in June and that the budget could be revisited to re-allocate funds if necessary. AW makes a motion to approve the article as written, PA seconded. More discussion: AW restates that this is an experiment; SA questions the need for change; MS says May is a valid choice and agrees with AW; PA prefers to keep the meeting in June, because of better budget numbers; MR thinks that attendance was down in June because of the tornado and would like to see the meeting moved to May. JL would like to see the meeting change to May. SS also prefers a May meeting. Vote is 3-4-0, motion is defeated.

PA makes a motion to amend Article 54 by changing the date from May to June, KS seconds. MR notes that the Tantasqua Regional High School holds graduation ceremonies during the first weekend in June. KS rescinds his second of the tabled motion. PA makes a motion to approve Article 54 as written, KS seconds. Vote 5-2-0.

Article 55 General Bylaw Amendment-Time of Annual Town Meeting: Motion to approve as written made by AW, seconded by MS. Vote 6-1-0.

AW makes a motion to begin deliberation on Article 48; board approves. AW makes a motion to reconsider Article 48 Shepard Parcel Use-80 Route 15, SA seconds. Vote is 7-0-0. AW asks EJ if she supports the article as it is written, EJ answers yes. AW makes a motion to approve the article as written, PA seconds. Discussion begins: KS asks if the ConCom has the authority to allow active recreation and why is Article 97 (of the State code) applicable? EJ states that no change of use is occurring and that the ConCom is not disposing of the property. She goes on to make the point that active recreation is expressly allowed under the current language. KS reads a statement into the record:

The Finance Committee recommends the Town take no action on this article. Although we realize there is a strong desire and need in the Town to increase the amount of land available for athletic fields, we feel this article sets a bad precedent in how the Town should acquire such parcels.

When the Shepard Parcel was sold to the Town, both the deed and warrant article permitting the sale indicated the land was to be used "for open space and conservation purposes, to be managed by the Sturbridge Conservation Commission." Neither mentioned any specific allowed uses because it was expected that the Town would be putting the legally required conservation restrictions on the deed which would have listed the approved uses. Unfortunately, years have passed and no conservation restrictions have been put in place. We now have some in Town who want active recreation as a use and claim the land was definitely intended for active recreation

while others vehemently disagree. It seems clear now that it would have been far better if the warrant article and subsequent deed had been very specific as to intended uses rather than waiting for conservation restrictions to do that job. However, with no intended uses in the deed or warrant article nor any conservation restrictions, we cannot simply assume that active recreation was an approved use.

For those who want active recreation, Article 48 appears to be an attempt to circumvent the required procedure of waiting for conservation restrictions to clarify intended use. The article is asking the State legislature to approve active recreation based on a Special Town Meeting vote in which we ask current voters to indicate what they feel voters intended for this land in 2004. This circumvention seems like a very ethically-challenged approach. How is it even possible for voters at a 2011 Special Town Meeting to truly know what voters at a 2004 meeting intended for this land?

It seems many are simply hoping that a vote, by an overwhelming majority, in favor of active recreation would sway the State legislature into allowing the Town to build much needed fields. By circumventing the required process, what lesson are we teaching the children who will use these fields – that it is okay to ignore the proper processes and channels as long as you get what you want? What if voters at the 2004 meeting didn't want active recreation? Are we setting a dangerous precedent by asking voters to guess what was intended in 2004 in an effort to get a popular use approved by the State Legislature? How can the Town expect anyone in the future to donate or sell land to our Town for conservation if the Town shows that we are willing to circumvent proper channels in an effort to allow certain popular uses?

It has even been noted by some that the Town has obtained a letter solicited from the original seller stating he would happily support athletic fields on the land he originally sold to the Town for conservation and open space. While it's comforting that he supports this use, what if he didn't? Would we still be trying to overturn his wishes by taking this to the State legislature? Or, what if he weren't in favor of just athletic fields but a stadium or condo complex or shopping mall instead? If a former owner decides they wish they didn't sell or donate their land for conservation purposes, is that relevant? Or, is the vote of the residents that attended the 2004 Town meeting more relevant? At that time, they voted to use their tax dollars to purchase this land for conservation and probably expected that the required conservation restriction would have been placed on that land in a timely manner.

Before we resort to taking this issue to the State legislature, perhaps we need to carefully consider the consequences of the precedent we're setting. This warrant article has opened a can of worms and shed light on the fact that the Town of Sturbridge may be woefully lacking when it comes to having a clearly written plan regarding land purchased or donated for conservation purposes. We should consider establishing guidelines for future transactions that ensure that this same problem will never happen again. We need to clearly designate allowed uses in all warrant articles and subsequent deeds – so there is no need for guessing in the future. These questions (and possibly others) need to be addressed before we make matters worse. In fact, one could even argue the purchase process that began in 2004 has not been completed until the conservation restrictions are in place based on the language in the original warrant article. The Town's ownership of this land will not change while we answer these questions. As a result,

there is no reason why we shouldn't take a little time to ensure we are doing the right thing and following the correct process.

EJ agrees that the language of both Article 48 and the Deed to the property are vague, but she stresses that the CPA language clearly outlines uses of this property. EJ goes on to explain conservation restrictions (CR). MS asks why we cannot fund the CR. EJ answers by saying that CRs require a third-party stewardship entity to monitor the uses of the property. MS asks whether active recreation is permitted on the Hein's Farm parcel and EJ answers no because PLAC does not allow active recreation on this property. AW points out that the agreement specified no permanent structures are permitted on the Shepard parcel. EJ makes the point that there is gray area in this article and going to the State for agreement protects the Town against challenges by residents with respect to the language of this article. MS asks if CPC has weighed in, and SA responds that the use is already permitted but that petitioning the Legislature is an attempt to mitigate and clarify. EJ agrees with SA. JL makes the point that CPA does not stipulate a timeline for obtaining a CR but she does ask why this has not yet happened. EJ answers by saying that an entity has not been found that allows active recreation; additionally, PA asks what the cost of petitioning the Legislature on this issue will be, SS answers it will be modest. PA goes on to say that the ConCom can make the decision about use; she also says this brings the issue back to the voters and it is better to bring it to the Town for a vote. JL asks if this may become an issue for all other properties in Town, EJ answers yes. MR says she would like to see the CR in place. MS asks the question, "If no third-party can be found to hold the CR, can the Recreation Department hold the CR?" EJ answers no, because the Recreation Department is not independent of the Town, but goes on to say that CPA is recognizing this as a problem and some creative solutions are being sought. KS says the original article requires a CR before any action is taken. MR asks can we ignore the language; SS says there is no problem as of now with no CR. MS asks since a super-majority voted for this at an ATM, can this be undone by a vote at the STM? MR reads a portion of Article 97 of the CMR and asks why it does not apply in this case. EJ answers because the ConCom is not disposing of this property.

Discussion now includes audience members. TC disagrees with SS about whether Town Counsel did have two opinions and proceeds to read letters from Counsel. TC believes SS should have been more respectful. LC disagrees with Town Counsel and states that we can then she goes on to say that the process is important and needs to be followed. Mike Moran (MM) believes the deed is clear and the process has not been circumvented. He hopes a league or group will come forward and agree to hold the CR for the Town. EJ speaks to LC's point: the ConCom will not divest the property; ConCom should not oversee active recreation. MS asks MM to offer his interpretation as he was present for the 2004 vote. MM believes the uses were made clear and were voted upon at that meeting. Vote is 3-3-0. The motion to approve Article 48 as written is defeated. KS makes a motion to reconsider Article 48, AW seconds. Vote 7-0-0.

AW makes a motion to approve as written Article 48, PA seconds. Vote 4-3-0. KS will craft the summary box text for Article 48.

Article 56 General Bylaw Amendment-Warrant Article Timeline. AW makes a motion to authorize KS to review the article and craft a recommendation to the committee, SA seconds. Vote 7-0-0.

Article 50 Transfer of Funds-Tornado Related Expenses. SA makes a motion to see if the Town will appropriate from free cash the amount of \$415,000 for tornado related costs, MR seconds. Vote 7-0-0.

Article 51 Unpaid Bills. MS makes a motion to approve this article as written, JL seconds. Vote 7-0-0.

Article 63 Citizen Petition Re: Annual Town Meeting. AW makes a motion to take no action on this article, PA seconds. Vote 7-0-0.

Motion to adjourn made by KS at 10:50 pm.