

# MINUTES OF TOWN OF BERKLEY SELECTMEN'S MEETING OF 10/13/2021

SELECTMEN IN ATTENDANCE: George F. Miller, Chairman Dean R. Larabee, Clerk Wendy F. Cochrane, Member

| TOPIC        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ACTION                                                                          |
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|              | Meeting Convened at 6:43pm in the Moitoza – Pettey Hearing Room                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                 |
| New Business | <p>MSBA Building Project update. Taken out of order. Melissa Ryan, superintendent of Berkley Public Schools, gave update regarding MSBA project for the Berkley Community School. She stated that BCS was accepted into the MSBA grant program for repairs and that the MSBA recommends appropriating \$500,000 to complete the feasibility study. Ryan stated that some money has already been appropriated and is only looking for less than \$300,000. Some of the repairs include a leaking roof, windows that do not close, the concrete around the building, fixing the walk-ways, a new gym floor, and weather proofing the outside of the building. Ryan also stated that the feasibility study would take the majority of next school year and the earliest it would go to the MSBA for approval is July of 2023. Joe Freitas, chairman of the Finance committee, stated that the town voted to appropriate the money, \$200,836.00. There will be an informational meeting October 18<sup>th</sup> at 7:00pm. Miller supported putting it to town vote at Special Town Meeting. Ryan explained the feasibility study and stated that the town would have a choice on what to complete. Things that bring them up to code would be mandatory. Heather Martin-Sterling stated that we are in Module 3 of the grant process and suggested talking to Somerset who just underwent a feasibility study. Freitas stated that on October 6<sup>th</sup>, Fin Com met and is in complete favor of funding the needed monies. Monies not used would go back into the general fund. Martin-Sterling stated that per MSBA, the town is required to appropriate the full cost even though we will be reimbursed, MSBA will not let us move forward if not. Ryan stated that the reimbursement rate is 55.63% but can fluctuate. The Board of Selectmen thanked Superintendent Ryan for coming in.</p>                                                                                                                                                                                                                  | Informational, no action needed                                                 |
| Minutes      | <p>The Board of Selectmen voted to table the following minutes<br/> June 23, 2021<br/> June 23, 2021 – Executive Session<br/> September 15, 2021<br/> September 23, 2021</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Larabee motion to table, Cochrane 2 <sup>nd</sup> voted, all voted              |
| Meeting Mail | <p>Invitation to Bristol-Plymouth Open House October 16, 2021. The Board of Selectmen voted to file.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Larabee motion to file, Cochrane 2 <sup>nd</sup> voted, all voted               |
| Old Business | <p>Board to continue the discussion of the complaint from the neighbors regarding Ricardo Way's motocross track, also to include the owner of the property. Heather Martin-Sterling stated that the initial complaint came from Mr. Newcomb and more neighbors had come forward stating that money transactions were taking place with screenshots of Venmo transactions, YouTube posts, with the biggest complaint being noise. Miller read the letter from Kathleen Frisbee dated September 1<sup>st</sup> into the record.<br/> The Board of Selectmen voted to put the letter from Frisbee into permanent record. Sargent Newhook explained the ambient noise test he performed with Mr. Biszko, Building Inspector. He noted that he performed the tests at 31 Plain St E and 45 Plain St E. Sargent Newhook stated that the Spectrometer measured .3 decibels over the limit. At 45 Plain St E, the Spectrometer measured .5 decibels over the limit. Mr. Rob Powell, 31 Plain St E, stated bikes are running from 11:00 am – 5:00 pm, sometimes for 12 hours a day. Ms. Martin-Sterling noted that there is no noise ordinance and explained the DEP policy. Ms. Karen Kullas, 51 Plain St E, brought in a sound level reader that measures ambient and peak. She stated that she used it to measure the noise from their back deck. She also stated that it is required by OSHA to report certain things and would like to get Sargent Newhook's report. Mr. Miller stated that he doesn't believe OSHA regulations apply to the town nor does the town have the ability to enforce it. Ms. Kullas asked if Sargent Newhook's readings were accurate. Sargent Newhook stated that the DEP set up the spectrometer and was tested with a calibrator to make sure it was working correctly. Mr. Miller stated that it sounds more like a Board of Health issue and noted that they are their own entity. Mr. Miller suggested reached out to Board of Health for enforcement issues. Ms. Kullas played a video she recorded at 6:09p.m. on October 6, 2021. Mr. Miller asked the neighbors present if they</p> | Larabee motion to add to permanent record, Cochrane 2 <sup>nd</sup> , all voted |

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would be interested in a noise ordinance. Mr. Newcomb is in favor. Mr. Walter Bezanuik, 45 Plain St E, stated that he feels the Board of Selectmen should be protecting the people and that they have failed the neighborhood as it is affecting quality of life and mental health. Mr. Miller stated that they cannot do things outside of their parameter and often refer to Town Council. Mr. Peter Peloquin, 19 Plain St E, stated that he noticed things were getting louder of the summer and it is a constant noise. Mr. Riccardo, 1 Riccardo Way, stated that he wanted to be commercial in 2014 but faced constant harassment with neighbors. He stated that there were verbal altercations, things dumped on his track, noted that his signs were disappearing, and neighbors were lighting fireworks during their showings. He stated there was no common ground. He also noted that he voluntarily allowed the sound test. Mr. Miller asked about the YouTube video that was brought to their attention by the neighbors. Mrs. Angela Riccardo, 1 Riccardo Way, stated that the person who made the video is someone she rides with and she did not pay for the video. Mr. Miller then asked about the \$30 for 30 minutes comment on the video. Mr. Riccardo stated that they do not charge money but people will make voluntary donations or bring them fuel or other exchanges to ride on the track. Mr. Miller stated that if there is an exchange, it is commercial. Discussion continued about Venmo payments. Mr. Miller stated that it is a business whether they call it a donation or not. He asked if they were paying taxes on those donations. Mrs. Angela Riccardo stated yes, they are paying taxes on a 1099 through Venmo. Mr. Miller stated that they can ride on their own property with friends and family but since payment is involved it is considered a business and the Building Inspector would have to file a Cease and Desist on all riding. Mr. Miller stated if they receive a 1099 it is income. Ms. Angela Riccardo retracted her statement about paying taxes as they have not received a 1099 but Venmo is changing their policy where they will send 1099's. Discussion continued. Mr. Miller stated that the Riccardo's can use their motor cross track and ride with family and friends as long as no donations are taken, but could apply for a special permit and have significant restrictions on it. Mrs. Riccardo stated that the sound test was very informative and noted that they are not doing anything malicious. The Board of Selectmen thanked everyone for coming in. Mr. Riccardo thanked the Town for giving concrete data. The Board of Selectmen voted to have the Building Inspector send a letter to the Riccardo's informing them to cease and desist commercial dirt bike operation.

Board to continue discussion regarding Common Baseball Improvement Committee. The Board of Selectmen voted to table discussion.

Board to continue discussion about the Myricks Street Project. The Board of Selectmen voted to table discussion.

Update on Assistant Town Clerk. Ms. Martin-Sterling stated that she does not have an update. She mentioned that she did speak to Kerrie Easterday, a past employee, and asked her to reach out to other Clerks to see if anyone is interested. Ms. Martin-Sterling also noted that Ms. Pereira will be traveling for 2 weeks on Sunday. Special election papers for town clerk and moderator needs to be certified by November 5<sup>th</sup>.

## New Business

Board to review conditions and vote on Special Permit application for LB & Sons Construction. The Board of Selectmen voted to approve the Special Permit for LB & Sons Construction Co. located at 88 Jerome St, Berkley, this approval is limited to registering the business, LB & Sons Construction Company, to receive mail and for the renew of HIC Licenses only, no additional business activities are allowed to take place on the property and no signage to exist on the property. The Board of Selectmen will sign on Monday.

Board to review and approved agreement with Berkley and Waste Management regarding Holloway St. The Board of Selectmen voted to table until the meeting on Monday.

Board to set date to open and close the Special Town Meeting warrant. Ms. Martin-Sterling stated that the warrant needs to be mailed out by the 10<sup>th</sup> of November. The Board of

Larabee motion to send letter, Cochrane 2<sup>nd</sup>, all voted

Cochrane motion to table Common Baseball Improvement and Myricks Street Project, Larabee 2<sup>nd</sup>, all voted

Informational, no action needed

Larabee motion to approve, Cochrane 2<sup>nd</sup>, all voted

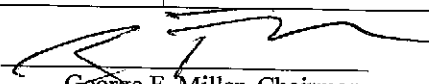
Cochrane motion to table, Larabee 2<sup>nd</sup>, all voted

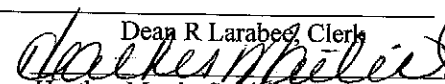
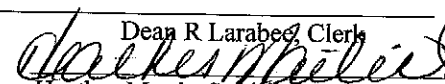
Cochrane motion to open and close

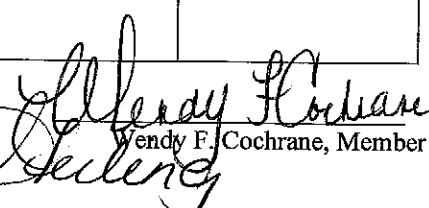
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| Town Administrator Report | <p>Selectmen voted to open the Special Town Meeting warrant effective immediately and close October 14<sup>th</sup> at 10a.m.</p> <p>Bristol-Plymouth MSBA update. Ms. Martin-Sterling stated that the BP MSBA project has come in and the assessment for the Town of Berkley is \$20 Million. She also noted that they are looking to bring Freetown in as a new member town that might decrease our assessment. She stated that there is an informational meeting on October 27<sup>th</sup>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>STM, Larabee 2<sup>nd</sup>, all voted</p> <p>Informational, no action needed</p> |
| Finance Committee Update  | <p>Bristol County Agriculture MSBA update. Ms. Martin-Sterling stated that Bristol Aggie is already in process and has been approved by member communities. The Town's estimated debt for the BA project is \$1.2 Million for our current enrollment of 9 students.</p> <p>Mr. Freitas, chairman of the Finance Committee, stated that the Finance Committee is in full support of the Berkley Community School MSBA project and the feasibility study to meet the \$500,000 threshold. He stated that the money is coming out of uncommitted monies from the state and new growth from the Assessors. He stated it is easily covered. Mr. Freitas also stated that the Finance Committee is in favor of funding the assistant ACO salary for 2 days for 38 weeks. He also discussed the \$1,000 bonus for the Tax Collector certification and additional hours for COA totaling \$5,320. Mr. Freitas stated that the remaining balance would be \$1,319. He discussed the BA project cost difference for what the Town allocated and stated there is a \$8,800 difference. Mr. Freitas stated that there is no way our operational budget will sustain big increases. Discussion continued about debt exclusion. Mr. Larabee asks the Board to consider the reformation of the Fiscal Task Force.</p> | <p>Informational, no action needed</p> <p>Information, no action needed</p>          |
| Adjournment               | <p>The Board of Selectmen voted to adjourn.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>Larabee motion to adjourn, Cochrane 2<sup>nd</sup>, all voted</p>                 |

  
George F. Miller, Chairman

  
Dean R. Larabee, Clerk  
  
Heather Martin-Sterling, Interim Town Administrator

  
Wendy F. Cochrane, Member