

MINUTES OF TOWN OF BERKLEY SELECTMEN'S MEETING OF 10/05/2022

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

TOPIC		ACTION
	Meeting Convened at 5:03 p.m. in the Council on Aging Room, Town Hall, and via Zoom	
Personnel (taken out of order)	Board to appoint Marc Gaspar as a Full-Time Police Officer. A brief history of Mr. Gaspar's skills and qualifications was provided. The Personnel Board motioned to recommend to appoint to the Board of Selectmen. The Board voted to appoint. Board to review letter from Interim Town Administrator regarding the Berkley Police Department Officer-in-Charge. The letter was read into record, Sergeant Newhook was named Officer-in-Charge until upcoming Police Chief Christopher Baker is sworn in and begins his position. The Board voted to file. Board to potentially hire Ashleigh Haslam as Assistant Town Accountant. The Personnel Board motioned to enter into negotiations with Ashleigh Haslam and motioned to hire Ms. Haslam at the conclusion of successful negotiations. The Board voted to hire Ashleigh Haslam at the conclusion of successful negotiations.	Larabee to motion to appoint, Cochrane 2nd; voted. Cochrane to motion to file, Larabee 2nd; voted. Larabee to motion to hire, Cochrane 2nd; voted.
Public Hearing	The Board voted to continue the Public Hearing from July 20, 2022. The Chairman entered miscellaneous documentation into the record. The Chairman noted a signed Petition in opposition of the Special Permit, which was signed by 84 Berkley taxpayers. The Chairman invited anyone with new information that was not previously submitted to speak. David DeStefano of 5 Plain Street E provided copies of the Town Bylaws and noted that he felt they were not being followed and he had questions. The Chairman clarified that the process was going to be reviewed and it could not be determined whether or not Bylaws were being followed until the situation was analyzed. Sandra Hayward of 30 Plain Street E provided new information in the form of a Memorandum and gave a brief summary of same. Ms. Hayward explained that after speaking with Bill Bissonnette of Riverside Realty he feels that the future existence of the track could possibly negatively impact the sale or pricing of nearby properties; she also noted that a Disclosure Form would not have to be completed but if it is questioned by a potential buyer, they are obliged to disclose. Michael Ricardo provided information with legal definitions of fencing and walls along with material research. The Board began discussion of the optics, including <u>Community Needs</u> and <u>Economic Needs</u> including donations to various associations (BAA and Firefighters Association were specifically mentioned but noted by Mr. Ricardo that is at a minimum). Dean Larabee agreed with the Chairman that there may be little economic benefit. The Chairman also asserted that while there may not be a community need for the track, it would certainly fill the need for anyone who wanted to ride. Wendy Cochrane also noted that she saw both sides, where if there are people in the Town that want to ride, this would fill that need, but she also sees the other side where it may not be a true "need" of the Town. Town Counsel, Adam Costa, wanted to remind the Board about a drafted Approval of Conditions, which was not binding to any decision; Attorney Costa noted that in the Findings of Fact of his draft Approval of Conditions addressed the 6-part test and he suggested the Board review same as the Board continue to assess. Within the draft Approval of Conditions the Chairmen recited <i>"trail riding and other forms of motorcycle or dirt-biking use could occur on the locus by right as ancillary to its residential use, but would lack the operational constraints and noise mitigation required hereunder"</i>; but also reiterated that this is still solely discussion. The Chairman continued that the Board would need to decide whether any conditions, should the Board decide to move forward with the Special Permit, would minimize the disturbance to neighbors while also allowing the motocross users to practice their sport appropriately. <u>Traffic Flow and Safety</u> was next discussed; the Chairman asked how the Board felt about the possible impact. Ms. Cochrane felt that it would depend on how many vehicles would be participating at any one time; the Chairman noted that there would certainly be increased traffic on the street and that the Board must decide if said impact is significant. Dean Larabee posed a question regarding safety; Attorney Costa confirmed the term safety was relating to traffic and that the Board did not have any	Larabee to motion to open Public Hearing, Cochrane 2nd; voted.

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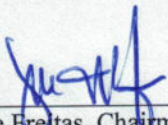
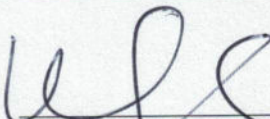
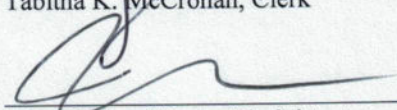
obligation to ensure safety on the private activity on private property, nor would the Town face any liability with respect to same. Adequacy of Public Services was discussed, Ms. Cochrane did research on emergency calls with respect to the property, and asserted that no emergency calls were ever made with respect to the track. Impacts on the Natural Environment: the Chairman noted that this would need be analyzed and asked the Board if they had any opinions. The Chairman noted there is not an environmental study, but also noted that it seemed to be a smaller area than he was expecting. The Chairman does not feel that it's a large enough operation to have a significant environmental impact. Mr. Ricardo noted that they have a Notice of Intent through the Conservation Commission and the operation is actually improving the environment by reconstructing 3,500 sq. ft. of wetlands. David DeStefano argued that the fact that the "trails" are condensed in a small area also means that the noise is concentrated in one area. The Chairman reasserted that his opinion of the size of the area was specific to the environmental impact and not the noise. Potential Fiscal Impact was next discussed and noted that there would not be any significant impact to the Town in neither a positive nor a negative manner. Neighborhood Character and Social Structures was next discussed along with the potential conditions of the Special Permit, if granted: (i) number of motocross bikes and riders; (ii) days and hours of operation; and (iii) seasonal operation restrictions. **I.** The Chairman started the discussion from the prior meeting regarding the possible restriction of no more than seven (7) motocross bikes to operate on the track concurrently irrespective of whether its youth bikes, adult bikes or a combination of the two; no trail riding or other forms of motorcycle or dirt bike use can occur on locus simultaneous with or while motocross riders are on the track; the applicant can authorize sequential riders/ groups of riders provided no more than seven (7) are concurrently using the motocross track. **II.** Use of the motocross track would be permitted for up to five (5) days per week, but will always exclude Sundays and all federal and state holidays; **III.** from March 1 through October 31 during the following hours, only: Monday through Friday from the hours of 10:00 AM – 1:00 PM and/or between 4:00 PM and 7:00 PM and Saturday between 10:00 AM and 5:00 PM, provided that during the months of June, July and August use of the track would also be permitted during the hours of 1:00 PM and 4:00 PM. Dean Larabee noted the importance of defining the two "closed" days as well as listing the holidays, he also noted he understands the June, July and August additional hours, but want to ensure giving the neighborhood consistent breaks. The Chairman agreed a reduction of hours may be required. Joe Botelho of 9 Susan Drive spoke on the matter, and he voiced his concern that there's a possibility of constant noise for 7 hours, he feels the hours should be a bit shorter. Attorney Costa spoke on the matter and noted that the Board ultimately has 3 options: (i) approve the Special Permit unconditionally; (ii) approve the Special Permit with conditions; or (iii) deny the Special Permit. The Attorney for the Ricardos also spoke and noted that there is an opportunity to work with the neighbors as well and try to compromise; the Ricardos are applying for the permit on good faith and have every intention of putting the dispute to bed with an artfully crafted Special Permit, which they intend to abide by all specifications. The conditions were further discussed; Applicant's Presence Required: use of the track without Mr. Michael Ricardo or Ms. Angela Ricardo present is strictly prohibited. The Hours of Use were readdressed: use of the motocross track is permitted up to five (5) days per week expressly excluding Sundays, Mondays, Good Friday, Juneteenth, Independence Day (actual not observed); March 1 – October 31 the hours of operation are as follows: if Tuesday-Friday between 10:00 AM and 1:00 PM and/or between 3:00 PM and 7:00 PM and if Saturday between 10:00 AM and 1:00 PM and/or 3:00 PM and 6:00 PM. There was also a discussion regarding a one or two week period during the summer season that there would be no riding. The Board agreed considering that Sundays and Mondays are already non-operational, a one week no riding restriction is sufficient. It was agreed upon that the third week of August would be the designated week. The neighbors were unhappy with the one week v. two week restriction and the Clerk reminded the room that if there is no Special Permit granted, riding could occur whenever without any restrictions. The Board asked the Ricardos if there is a second week outside of the summer months that could be a restricted week. The third week of June was suggested by Mr. Michael Ricardo and it was agreed upon as the second week of no riding. The Zoning Enforcement Officer, Joseph Biszko, posed a question: if an Agreement is reached with all agreed upon conditions, said conditions and Agreement pertain specifically to the track and not the balance of the property? The Board confirmed that there is a provision in the Agreement: only if they are riding on the track, they cannot ride on the

Larabee to motion to close Public Hearing, Cochrane 2nd, voted.

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	<u>balance of the property simultaneously.</u> The Board noted that there would need to be a unanimous vote in order for the Special Permit to be granted. The Board voted to grant the Special Permit pursuant to all noted conditions.	Cochrane to motion to grant Special Permit, Larabee 2 nd ; voted.
New Business	Board to sign Special Town Meeting Warrant. The Board voted to sign.	Larabee to motion to approve and sign, Cochrane 2 nd ; voted.
	Board to review and sign Waterman Upgrade Agreement for the 1,100 foot extension of the waterline for Holloway Street.	Cochrane to motion to sign, Larabee 2 nd ; voted.
Adjournment	The Board voted to adjourn, with the announcement of the next meeting to be held on Wednesday, October 12, 2022 at 6:00 p.m.	Cochrane to motion to adjourn, Larabee 2 nd ; voted.


Joe Freitas, Chairman
Tabitha K. McCrohan, Clerk
Matt Chabot, Town Administrator
Wendy F. Cochrane, Member