August 20, 2019

The Meeting of the Board of Selectmen held on Tuesday, August 20, 2019 began at 6:00 p.m. in the Selectmen's Conference Room, Town Hall.

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Members Present: Chairman Mr. DeBarge, Mrs. Fernandes, Mr. Silva and Mr. Rosenblum
Members Absent: Mr. Goncalves

First Order of Business: The Pledge of Allegiance

Visitations:

David Eisenthal, Unibank-Financial Advisor – Borrowing and Bond Selling Discussion

The Board met with David Eisenthal, Financial Advisor; Elsa Barros, Town Treasurer; and Kim Collins, Town Accountant to consider approving a vote drafted by Rick Manley, Town Bond Counsel of Locke Lord LLP, authorizing the Town Treasurer to make an application to the municipal finance oversight board to allow the Town to issue state qualified bonds under Chapter 44A of the General Laws. These bonds are issued by local governments, cities, towns, and school districts. The debt service on these bonds is paid by the State Treasurer not the Town Treasurer out of the local Chapter 70 aid unit of government. This is considered as an enhanced credit. The rating agencies rate these bonds off the Commonwealth's rating. S&P rates the Commonwealth at AA+ and rates the qualified bonds at AA. If the Town's current rating of AA- is downgraded, one possibility would be for the Town to issue qualified bonds to provide the most efficient financing as possible. One other possibility is if the Town is downgraded or changed to negative, the Town could apply for prequalification, at no cost, for bond insurance from one of the nationally recognized bond insurers such as Build America Mutual or Assured Guaranteed Municipal.

Mr. DeBarge asked if the bond rating stays the same, would this still be the course of action to take?

Mr. Eisenthal stated this is a contingency plan in case the rating takes a downgrade.

Mrs. Fernandes asked is there anything we can do to prevent our rating from going down?

Mr. Eisenthal stated the Town has been trying to change direction financially. The rating agencies look at the financial reserves of the Town. On June 30, 2016, the Town had available reserves of about 11% of expenditures. By the end of 2018, the available reserve was down to 6.4%. Mr. Eisenthal stated FY 2019 did not see as a dramatic decrease and hopes that will result in no negative action.

Mrs. Fernandes asked if the rating agencies look at the various types of expenditures the Town is making such as the new school and senior center?

Mr. Eisenthal stated the rating agencies do not place judgment on the worthiness of the capital projects the Town finances. The rating agencies look at what is the ability and willingness of the Town to pay debt service. Even if the rating is downgraded, it is still well within investment grade. If the Town's rating goes from AA category to A category, we want to be prepared with appropriate credit enhancements to get the Town the most efficient financing possible.

Mr. Eisenthal stated the stakeholders and management of the Town have been responding by trying not to use reserves, for example, to balance the budget in the setting of the tax rate. The fact that it did not happen in 2019 was very helpful. A continuation of this type of approach is good for the long run.

Mr. DeBarge stated the Town is trying to build up stabilization, not use it against the tax rate, and does not want to see our bond rating go down. Mr. Eisenthal stated the Town has been doing several of the right things. Revenues have been coming in higher than estimates and expenditures have been coming in below budgeted appropriations. The problem is if you use more than that positive amount to balance a future budget, you are going to be eating into the financial reserves of the Town which has been happening through fiscal years 2017 and 2018 which resulted in the Town being in a position that was less strong with 6.4% of expenditures. Although it is not a certainty that a downgrade will happen, it is wise for the Town to have a contingency plan and make use of credit enhancement if needed.

Mr. Silva moved and seconded by Mr. Rosenblum that the Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General Laws any and all bonds of the Town authorized but not yet issued as

of the date hereof, including, but not limited to, bonds authorized for the Chapin Street School, East Street School, Senior Center and radio communications projects, and to provide such information and execute such documents as such officials of the Commonwealth may require in connection therewith. Vote 4-0.

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Circuit Avenue Flooding Discussion with Michael G. Suprenant, P.E., Temporary Director of the Department of Public Works/Town Engineer, Thomas Haluch, Chairman Board of Public Works; Penny Lebel, Conservation Commission; Mike Pietras, Engineering Land Solutions/Conservation Commission; and Lee Winterton, Circuit Avenue homeowner.

The Board discussed flooding issues concerning Electric Park, mainly Circuit Avenue. Mr. DeBarge stated he took a tour with Mr. Winterton of Circuit Avenue in the areas where the waters are coming in during rain storms. Mr. DeBarge stated he spoke with residents on Circuit Avenue concerning their theories as to why water is coming down from the hill and reviewed Mr. Pietras' report. Mr. DeBarge stated the storm drains in that area have recently been vacuumed.

Mr. Pietras was asked by the Ludlow Conservation Commission to investigate possible causes and potential issues concerning the flooding on Circuit Avenue. Mr. Pietras stated upgradient subdivisions and abutters could possibly be contributing to the Circuit Avenue drainage issues. Mr. Pietras stated he and DPW representatives have walked the area during storm events to evaluate the situation and reviewed historical records dating back to the 1980s. The subdivisions upgradient north of the property do not have any structured drainage system. The aerial Mr. Pietras distributed shows the lowest in grade of Circuit Avenue. With the older subdivisions having no control or retainage of their water they dump into the nonperennial stream that comes into the top of Susan Drive. There is also a nonperennial stream at the end of Susan Drive. The culvert from the last house has also washed out. There is an outfall associated with an area that is concrete lined that goes to Chapin Street, into a 42-inch culvert and dumps into the river. Mr. Pietras stated storm events have caused trees to fall along the stream channel which altered the flow to go through Circuit Avenue instead of through the stream beds to Chapin Street. If we can lessen the upgradient sources, it will alleviate some of the Circuit Avenue issues. DPW has provided some relief by cleaning out the catch basins.

Mr. Pietras stated there are a few ways to alleviate the issue. Mr. Soik agreed to increase a retention basin on his property and provide an earthen berm to hold anything he is generating from going downgradient.

Mr. Pietras stated he spoke to the developer of Parker Lane who agreed to hold back portions of his retention basin that currently flows into a stream bed behind Oak Knoll and then down into the subject piece.

Mr. Pietras stated one of the biggest items is correcting the stream bed. Mr. Pietras stated after reviewing the historic plans of Circuit and Voltage Avenues, they knew there was a water issue because the subdivision plan calls for an earthen berm to be retained on the easterly side of the subdivision, portions of which are still there, but most have been removed. Increasing the drainage capacity of the system there would be most costly. Mr. Pietras stated correcting the stream bed to what it was 20 years ago is the best cost alternative for the Town and the best relief for the neighbors.

Mr. Pietras stated his recommendation involves a filing with Conservation and the MADEP to grant the DPW authorization to restore the stream bed to preexisting conditions. Mr. Pietras stated historically, the plans dictated the water was pushed to Chapin in a structured system and not flooding any downstream neighbors. Mr. Pietras stated residents on Susan Drive say both stream beds are very storm dependent, meaning no water flows in them until a storm event happens. Mr. Pietras stated Circuit Avenue is currently getting the brunt of the storm water.

Mr. Winterton, a Circuit Avenue resident, stated water floods his house on both sides after storm events. Mr. Winterton stated water comes down his driveway into his garage as well as his basement windows. Mr. Winterton stated his only option is to sell his house to the Town of Ludlow, knock the house down and make the property a holding pit to catch water. Mr. Winterton stated he believes the correct way to remedy the situation is the way Mr. Pietras has recommended. Mr. Winterton stated his understanding is the DPW wants to put pipe in the ground like they did in 2006 during the Posner Street flood.

Mr. Pietras stated structured drainage would be a more expensive relief for the Town. Mr. Pietras reiterated the stream beds should be revisited and corrected to pre-existing conditions.

Mr. Winterton stated the DPW installed a tar berm at the end of his driveway. Mr. Winterton stated once the berm is breached, it holds the water more in his driveway than out.

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Mr. Suprenant stated the DPW has reviewed Mr. Pietras' report. Mr. Suprenant stated if revisiting the stream beds is recommended, the DPW can increase downstream capacity connecting to the existing 30-inch pipe. Mr. Suprenant stated to improve the stream beds would require easements and rights of entry on private property which we would need to obtain authorization and might require the Board of Selectmen and/or Board of Public Works to acquire the easements. Mr. Suprenant stated he anticipates any stream work would take approximately a year because we would probably have to go to Town Meeting to acquire the easements. Mr. Suprenant stated if the Board of Public Works proceeds with the drainage in the street, a project could begin as soon as possible.

Mr. Pietras stated he has had discussions with several abutters who would be willing to sign easement agreements. Mr. Pietras suggested approaching the property owner of 54 Circuit Avenue to see if they would also sign an easement agreement. Mr. Pietras stated as part of correcting stream beds, if the Town acquired 54 Circuit Avenue, the Town could possibly file for certain storm abatement measures that could possibly take it one step further by installing a retention basin on the parcel to alleviate the storm surge. Mr. Pietras stated the outfall pipe on Susan Drive also needs work.

Mr. Pietras stated if a property owner will not let the Town have access to their property, the Town could file for a temporary adverse possession because it is in the public interest. The Town could also provide a monetary incentive for temporary easements.

Mr. Haluch stated in comparison to Circuit Avenue, both sides of Church Street near Munsing are very similar when there is a heavy deluge, water runs down both sides of the street. Every side street developed off Church Street, has no catch basins or drainage pipes. Some of the same past practices exist on Circuit Avenue. All developments off Ventura Street, such as Susan Drive, retention ponds do not exist.

Mr. Haluch would like to visit and review the area with Mr. Pietras and Mr. Suprenant to see what has transpired over the years to obtain a realistic understanding of the area especially since there is an abundance of vegetation in the area. Over time, heavy deluges of water have changed the landscape in the area. The drainage Pietras describes happens downstream of the problem. It should be cut off before it gets to Circuit Avenue.

Mr. Suprenant stated there is a state law that municipalities can utilize to go onto private properties when a resident does not allow us on the property, if it is for a public purpose, to do surveys and planning for the engineering work that needs to be done. We cannot do any construction until the easements are in place.

Mr. Pietras stated the resident on Susan Drive where two thirds of the work falls on their parcel verbally agreed to any measure that needed to be corrected. Mr. Pietras is willing to help with DEP filings. To remedy the existing intermittent stream, two easements would be needed. Mr. Haluch proposes a joint venture with Mr. Pietras and DEP.

Mr. Pietras stated there are several interests in the Wetlands Protection such as storm retention, flood control and habitat. If the habitat is not altered, the banks can be armored so the deteriorating conditions do not repeat which will require maintenance. Mr. Haluch stated as rural areas were developed, vegetation gets stripped off. In elevated areas, the water rushes in and the velocity of the water erosion takes place which causes the stream beds to change. The purpose of presenting this to the Board of Selectmen is for budgeting purposes.

Mr. DeBarge stated Mr. Winterton should be informed as steps are being taken to correct the flooding issues. Mr. Pietras stated the next steps would be the design plans and the filing. We can notify the abutters that surveyors will be on their property in preparation of the work being completed on the stream beds. All the planning can happen now if everyone agrees. Between Conservation and DEP, once the plans are submitted, it would take approximately a month. Once permits are in hand, then it's just scheduling the work. Securing the easement could be pursued concurrently with the work.

Mr. Silva stated we will need to submit an article for Town Meeting to cover the 50K budget for excavation. Mr. Winterton stated in 1993 Town Meeting had an article for $40K that covered the catch basins. Mr. Haluch stated there are enough contractors in Town who could help the Town save money. Mr. Silva stated they should proceed with permitting and if money needs to be obtained, then we will

proceed with the proper channels. The Board of Public Works and Mr. Pietras will schedule a meeting to walk the property. DPW and Mr. Pietras will work on issue to resolve flooding on Circuit Ave.

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Correspondence:

201. John R. Maher, Director of Government Affairs, Charter Communications – informing the Board of upcoming price adjustments for unreturned equipment.

Moved by Mr. Silva seconded by Mrs. Fernandes to file. Vote 4-0.

202. Commonwealth of Massachusetts Alcoholic Beverages Control Commission – informing the Board of a Decision Hearing held on Tuesday, July 30, 2019 regarding Tahir Humayun d/b/a E-Z Shop Convenience being issued a warning due to a violation of 204 CMR 2.05 (2) – Permitting an illegality on the licensed premises, to wit: M.G.L. Ch. 138 § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21).

Moved by Mr. Silva seconded by Mrs. Fernandes to file and forward correspondence to Tahir Humayun d/b/a E-Z Shop Convenience that the Board is aware of the warning received from the ABCC. Vote 3-1.

203. Massachusetts State Lottery Commission – informing the Board that an application for a Keno license has been received from Ludlow Shell, 227 Center Street, Ludlow, MA.

Moved by Mr. Silva seconded by Mrs. Fernandes to file. Vote 4-0.

204. David Slowick, Section Chief Emergency Response, Department of Environmental Protection – informing the Board of a Release Notification and Notice of Responsibility M.G.L. c. 21E and 310 CMR 40.0000, at Cumberland Farms Gas Station/Convenience Store, 105 West Street, Ludlow on August 9, 2019.

Moved by Mr. Silva seconded by Mrs. Fernandes to file. Vote 4-0.

205. Eva V. Tor, Deputy Regional Director Bureau of Waste Site Cleanup, Department of Environmental Protection – informing the Board of a Notice of Noncompliance Enforcement #: 00007902 sent to 330 Sewall Street, Ludlow for #2 fuel oil release.

Moved by Mr. Silva seconded by Mrs. Fernandes to file. Vote 4-0.

206. Villa Rose Restaurant, 1428 Center Street, Ludlow – application for a Beer and Wine One Day Permit for November 24, 2019 and a Sunday Music and Dance permit for a Tail Gate Party.

Moved by Mr. Silva seconded by Mrs. Fernandes to approve the application of Villa Rose Restaurant for a Beer and Wine One Day Permit for November 24, 2019 and a Sunday Music and Dance permit for a Tail Gate Party. Vote 4-0.

207. Board to approve a request to charge off medical expenses and lost wages to Chapter 41, Section 111F for a medical condition sustained to a Police Officer as a result of an incident that occurred on February 20, 2019.

Moved by Mrs. Fernandes seconded by Mr. Rosenblum to approve the request to charge off medical expenses and lost wages to Chapter 41, Section 111F for medical condition sustained to a Police Officer as a result of an incident that occurred on February 20, 2019. Vote 4-0.

Unfinished Business:

Board to appoint Sean McBride as the designee from the Recreation Commission to be a part of the Long-Range Planning Committee.

Moved by Mrs. Fernandes seconded by Mr. Rosenblum to appoint Sean McBride as the designee from the Recreation Commission to be a part of the Long-Range Planning Committee. Vote 4-0.

Board to accept the resignation of Beverly Chenaille as a Republican Election Officer effective August 15, 2019.

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Moved by Mrs. Fernandes seconded by Mr. Silva to accept the resignation of Beverly Chenaille as a Republican Election Officer effective August 15, 2019 and send her a letter of appreciation for her service. Vote 4-0.

Board to sign the one-day permit for a Car Show Fundraiser with Live music at Come-E-Calate, 191 State Street, Ludlow, MA.

Moved by Mr. Silva to rescind the vote from last meeting for the closure of the streets for the event and to approve the recommendations from the police department. Vote 3-0-1.

Board reviewed articles for insertion into the October 7th Special Town Meeting.

Standard Articles

Unpaid Bills for FY2019.

Moved by Mr. Silva seconded by Mr. Rosenblum to insert an Article for unpaid bills for FY2019 into Town Meeting.

Board of Selectmen

Article to authorize the Board of Selectmen to negotiate and enter an energy pilot with CPV Red Rock Solar, LLC.

Moved by Mr. Silva seconded by Mr. Fernandes to insert the article for negotiating an energy pilot with CPV Red Rock Solar, LLC into Town Meeting. Vote 4-0. Mrs. Villano will forward dollar amounts by email to Mr. Silva.

Article to accept Maria's Way as a public way.

Mrs. Villano stated several months ago the Board voted to make new subdivision rules and regulations that the deed would be paid by the previous owners. This article will allow them to have 120 days to have the deed processed. Moved by Mr. Silva seconded by Mrs. Fernandes to insert the article to accept Maria's Way as a public way into Town Meeting. Vote 4-0.

Amend Town Bylaws Chapter II Regulating the Conduct of Town Business, Section 23 to increase fees for gasoline storage permits.

The Board reviewed listings of the fees for gasoline storage permits of neighboring communities. Mrs. Villano states the Board needs to decide whether or not to increase the fees, and then it must go to Town Meeting. Mr. Silva would like to see an average of the gasoline storage permits in surrounding communities for discussion. Moved by Mr. Silva seconded by Mrs. Fernandes to insert the article into Town Meeting. Vote 4-0.

Amend town Bylaws Chapter II Regulating the Conduct of Town Business by deleting Section 14, Town Accountant keeping inventory of capital items, and Section 24 Capital Improvement Planning Committee.

Mrs. Villano stated in July, the Board accepted the financial policy manual for the Town. These items are in the policy manual, so they should be deleted from the Town Bylaws in its entirety. Moved by Mr. Silva seconded by Mr. Rosenblum to insert the article into Town Meeting. Vote 4-0.

Article to set the reasonable and proper speed on municipally owned streets within thickly settled or business districts at 25 mph.

Mr. DeBarge stated he is awaiting receipt of more information from the Safety Committee regarding the posting of the 25 mph speed limit signs. Mr. DeBarge stated it is his understanding that with Chapter 90 § 17(c) of the Mass. General Laws, that a sign is posted as you enter the community, for example, as you come over the Putts Bridge. Mr. DeBarge stated he does not think the sign will make a difference in the way drivers currently drive. Mr. DeBarge would have liked to have seen more data from towns that

have adopted the posting of such signs. Moved by Mr. Silva seconded by Mrs. Fernandes to postpone putting this article into Town Meeting until more data is provided. Vote 3-0-1.

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Easement with Springfield Water and Sewer for Harris Brook Elementary School

Moved by Mr. Silva seconded by Mrs. Fernandes to insert the Easement with Springfield Water and Sewer for Harris Brook Elementary School. Vote 4-0.

Easement with Springfield Water and Sewer for Bluebird Acres.

Mrs. Villano asked the Board to only insert this article only if Town Counsel advises it is needed. The Chicopee, Springfield Water and Sewer and Ludlow are going through this intergovernmental agreement which will allow Bluebird Acres to hook up into our sewer system. This is at the request of Springfield Water and Sewer. In review of it, Town Counsel thinks there may be some aspects of an easement within that language. The Board does not need to approve the intergovernmental agreement, but at Town Meeting, the Board would have to approve any easement language in the intergovernmental agreement. Moved by Mr. Silva seconded by Mrs. Fernandes to insert the Easement with Springfield Water and Sewer for Bluebird Acres. Vote 4-0.

Golf

Article for retained earnings.

Mrs. Villano stated the Golf Commission came before the Board and stated they are running in a deficit. The Town needs to subsidize the Recreation Commission with approximately $26,000 to take care of the deficit for fiscal year 2019 by placing it on the Tax Recap (Schedule A). Moved by Mr. Silva seconded by Mrs. Fernandes to insert the article for retained earnings for the Golf Commission. Vote 4-0.

DPW

Article to authorize the DPW to enter into a 10-year contract for recycling processing services.

Mr. DeBarge stated eventually, we are going to start paying for recycling. We are in a consortium of towns that signed a contract to get a better price for recycling. Moved by Mr. Silva seconded by Mrs. Fernandes to insert the article to authorize the DPW to enter into a 10-year contract for recycling processing services. Vote 4-0.

Simmons Road (Surplus Parcel)

Mrs. Villano stated there is a resident who owns a parcel of land on Vienna Avenue. There are two small parcels behind it. One is owned by a relative of the resident and one is owned by the Town. They have expanded the size of their home and are looking to expand the size of their lot. They are in negotiations with their relative to purchase the small parcel behind them. However, there is a small 4,000 square foot parcel also behind it owned by the Town that they would also like to purchase. For that to happen, the Board must vote on it and declare it as surplus and put it on the Town Meeting warrant to allow the Town Meeting members to authorize the Board of Selectman to sell a piece of land. Mr. Silva stated the abutter also wants to purchase the property and it should go out to auction. Mr. Silva also stated the Town does not have title of the property. Moved by Mr. Rosenblum seconded by Mrs. Fernandes to postpone this article and not to put it on the warrant in order to research this further and gain more information. Vote 3-0-1.

Board to close the warrant for the October 7, 2019 Town Meeting Warrant. Moved by Mr. Rosenblum seconded by Mrs. Fernandes to close the warrant for the October 7, 2019 Town Meeting Warrant. Vote 4-0.

New Business:

Chairman to approve and sign the contract between Minuteman Fire & Rescue Apparatus, Inc. and Town of Ludlow Fire Department for the purchase of one (1) Pierce Enforcer Pumper.

Moved by Mr. Rosenblum seconded by Mrs. Fernandes to approve and the Chairman to sign the contract between Minuteman Fire & Rescue Apparatus, Inc. and Town of Ludlow Fire Department for the purchase of one (1) Pierce Enforcer Pumper. Vote 4-0.

Chairman to approve and sign all bills, warrants and abatements. A record of all warrants is in the Selectmen's office for perusal.

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Moved by Mr. Rosenblum seconded by Mrs. Fernandes to approve and the Chairman to sign all bills, warrants and abatements. Vote 4-0.

Upcoming events are as follows:

August 24 – Fundraiser for Joe Santos (nicknamed "Joe Mama") from 1 p.m. to 6 p.m. at Come-E-Calate located at 191 State Street (rain date Sunday, August 25, 2019)

August 25 – Annual Cyclonite Sprint Triathlon at 8:00 a.m. begins and ends at Chicopee State Park (portions of the route include Burnette Road, West Street and Old West Street)

August 30, 31, September 1, and 2 - Our Lady of Fatima Church FESTA

September 1 – 11th Annual Ride Like an Animal Motorcycle Run & Car Show (a portion of the route includes turning onto West Street at approximately 10:50 a.m. – 11:00 a.m.)

Closing Comments:

Mrs. Fernandes urged residents to attend the upcoming Fundraiser for Joe Santos (nicknamed "Joe Mama") from 1 p.m. to 6 p.m. at Come-E-Calate located at 191 State Street and FESTA.

Mr. Rosenblum urged residents to attend FESTA and have a safe Labor Day weekend.

Mr. Silva encouraged residents to have a good time, be safe and enjoy FESTA.

Mr. DeBarge stated the Track and Field Fundraising Account is open and donations are being accepted.

Moved by Mr. Silva and seconded by Mrs. Fernandes to adjourn at 7:55 p.m. Vote 4-0 all in favor.

Ludlow Board of Selectmen

All related documents can be viewed at the Board of Selectmen's Office during regular business hours.