

**Board of Selectmen
Regular Meeting Minutes
October 20, 2020**

Chair Keyes convened the meeting at 7:00PM via Zoom Meeting

Pledge of Allegiance

Old Business

1. GURR – Right of First Refusal Next Steps; Land Acquisition Updates, 364 West Street

Per Chair Keyes, no vote will be taken tonight. The Select Board wishes to give all residents the opportunity to voice their opinion prior to a vote.

Attorney Peter Durning stated that the notice of intent that Board of Selectmen received on July 9, 2020 that referenced two separate parcels (Map 2, Block 8 and Map 2 Block 5) is the land that the right of first refusal lies. A portion of that property was dedicated under chapter 61, another portion was excluded from that land because it is considered wetland. The Chapter 61 program is for the preservation of forest land. There is a utility corridor that is also excluded from Chapter 61. Attorney Peter Durning continues to recap the results of the independent environmental assessment of these lands from Environment Partners that were discussed in a recent meeting. Attorney Peter Durning also recapped the timeline of events and information received, along with deadlines from July 9, 2020 to November 7, 2020.

Selectman Arcudi made a motion to move into Executive Session and reconvene into Regular Session at 9:15PM. Chair Keyes seconded the motion.

Roll Call Vote, Arcudi – Aye, Keyes – Aye

Executive Session

Motion: To move into Executive Session, pursuant to M.G.L. c.30A, § 21(a) for reason (6); To consider the purchase, exchange, lease or value of real property as the Chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body. Roll Call Vote

Purpose: Land Acquisition, 364 West Street, Attorney Durning present.

The Board reconvened to Regular Session to answer resident questions that were asked prior to the Executive Session.

1. Would this have been avoided if we exercised our right of first refusal earlier?
Attorney Peter Durning responded that the town received a notice of intent on July 9, 2020 that triggered a right of first refusal to exercise within 120 days. The Town is still within that period.
2. Explain the “assignment of beneficial interest”
Attorney Peter Durning responded, what GURR orchestrated with Charles Morneau, is the assignment of the beneficial interest of the trust which is control of the land held by the trust (364 West St). with GURR controlling the interest of the trust there is case law that would constitute the same thing as the sale of the land. Attorney Peter Durning’s recommendation would be to send notification to GURR that the assignment of beneficial interest conveyance triggers a new 120-day period in which the town could elect to exercise its right of first refusal.
3. Explain how the Trust was transferred to the Grafton Upton Railroad
The trustees assigned their beneficial interest, their possession of the land 364 West Street was transferred and now became the beneficial interest or effectively the land of the Grafton Upton Railroad. The name on the title has not changed, the owner of the land is still the 140 Realty Trust, because of that we are

going to move forward with the right of first refusal under the original July 9, 2020 notice of intent but to the extent there is an argument that the assignment of the beneficial interest constitutes a separate conveyance to GURR. We are also going to send notification that the conveyance affords the Town the opportunity to exercise the right of first refusal under the operation of chapter 61

4. Do you have to be present at Town Meeting to cast a vote?

Chair Keyes responded that residents need to be present at Town Meeting to cast a vote towards any of the warrant articles.

Selectman Arcudi made a non-binding motion that the Town Administrator present to the Town Clerk and Town Moderator the request from the Board of the Selectmen that at the Town Meeting these motions will be available to vote in a closed setting. Chair Keyes seconded the motion

Arcudi – Aye, Keyes – Aye

Chair Keyes stated that he received a freedom of information request regarding the letter he received from GURR on October 15, 2020. A second information request received on October 13, 2020 regarding “any correspondence from anyone concerned or of opposition regarding the land purchase”. Chair Keyes stated he will provide information request to the Town Administrator to provide to the public.

Chair Keyes opened the Regular Meeting up for questioning by the residents

1. Does Chapter 61 prohibit a conveyance?

Attorney Peter Durning responded, yes, the procedures that are built into it are designed to give the town the right to exercise before the conveyance has occurred.

2. Is the Town aware of any legal reason why there would be a dissolution of 140 Realty Trust in transfer of non-Chapter 61 to GURR?

Attorney Peter Durning stated that he is not able to answer this to its full extent. To his knowledge this has not occurred. GURR controlling the 140 Realty Trust, they have some flexibility that perhaps the Mournau family was not interested in exercise but there are steps that GURR could take for further restructuring.

3. What do we tell Town employees that are expected to not get a raise since the override budget did not pass?

Selectman Arcudi stated that the board is trying to balance the Town Budget. It is a matter of discussion at the Town Meeting.

4. What benefit does the Town have to allow the Railroad to purchase the land

Chair Keyes stated that the benefit is having a private partnership with an entity that is already established in town that would give us the opportunity to have a partnership in development as well.

5. Would it require that we vote as we do in a regular town vote and is there time to arrange that before Saturday?

Selectman Arcudi stated that he cannot answer this question until the Town Clerk and Town Moderator have responded to this motion.

6. Is there protection for the park lands for any development and changes to its boundaries?

Attorney Peter Durning responded, that no changes to the parkland boundaries have been proposed. The parklands are protected under Article 97, there cannot be a change of use for that land without complying to Article 97.

7. If the town does not exercise its right, did the railroad buy the land for a dollar?

Attorney Peter Durning responded, the transaction that the railroad had with 140 Realty Trust for lands that were not subject to Chapter 61, yes that was structured as a transaction for a dollar but that was not lands that the Town had any right of first refusal for.

8. Are there any specific concerns with the Board regarding the negative relationship that GURR has with Upton and Grafton?
Selectman Arcudi stated that he will defer this question to the night the board has to make a vote.
9. Will the Board of Selectmen honor the wishes of the town and follow the majority vote on Saturday (Special Town Meeting)?
Chair Keyes stated he cannot answer this question right now.
10. What is the purchase price for the Chapter 61 land?
Peter Durning stated it is 1,175,000,000.00

Selectman Arcudi made a motion to adjourn the meeting. Chair Keyes seconded the motion.

Arcudi – Aye, Keyes – Aye

Submitted by:

Lindsay Mercier
Lindsay Mercier, Executive Assistant

Adopted: _____