

SELECT BOARD MEETING MINUTES | April 22, 2020 | 6:00 P.M.

TOWN HALL MEETING ROOM

Present:

Verne Leach, BOS Chairman / ACO
Ed Munch, Selectman / Historical Commission
Bruce Cullett, Selectman / Police Sergeant
Caleb Mitchell, Town Administrator
Irene Morrison, Administrative Assistant

Residents:

Item 1: **Call to order:** 6:00 P.M.

Item 2: **Roll Call:** Chairman Leach present, Selectman Munch present, Selectman Cullett present

Item 3: **State recording status:** Mr. Leach and Irene Morrison recording, Live stream on Town Clerk Facebook page

Item 4: **Review and approve BOS Meeting Minutes of 3/30/20 and 4/6/20**

*Mr. Leach motions to table the BOS Meeting Minutes of 3/30/20 until the next BOS Meeting of 4/27/20.

Mr. Cullett seconds. All agree **VOTE 3-0**

*Mr. Leach motions to approve the BOS Meeting Minutes of 4/6/20 pending changes. Mr. Munch seconds. All agree **VOTE 3-0**

Item 5: **Update from Departments**

Highway – Mr. Cullett reporting on behalf of Supt. Russell

Mr. Cullett reports that the Highway Dept. completed cutting overgrown trees and brush back out of the Town's Right of Way from Orpin Rd. extending to the Worthington line. Cutting back the sharp corner near the Worthington town line has drastically improved the sight distance around that corner. The Highway Dept. has also completed about half of the sweeping on the blacktop roads in town and will resume tomorrow and probably one more day depending on the weather. He said the Town buildings parking lots will also be cleaned up tomorrow. The grading of Curtin Rd. & Kreutzer Rd. was done last week. They will continue to grade the rest of the gravel roads if the weather will cooperate. As soon as all the cleanup is done, and the gravel roads are graded, they will be able to start patching blacktop roads. The biggest areas of concern are E. Main Rd., W. Main Rd., E. Windsor Rd., Curtin Rd., and August Smith Rd. The Pittsfield Blacktop Plant is scheduled to open on 5/1/20, but that's not a firm date. The temperatures have to cooperate to be able to transport the blacktop. Mr. Cullett reports that Supt. Russell blocked off August Smith Rd. from the new house past Andes Rd. to Steve Dodge's property. They applied a lot of dense grade to that section of road the last couple years. That section of road is always very wet in the Spring and the road gets rutted up from the traffic that uses the road. He checked this week and it was still very wet. He will keep an eye on the area. When it dries up, he'll take down the barricades so that traffic from Andes Rd. & Spruce Dr. can travel that road.

Mr. Cullett reports that Supt. Russell wants to address the complaints that were read out loud in the last BOS Meeting. In his report, Supt. Russell said he should have been notified 48 hours in advance to be following the Open Meeting Laws of a complaint that concerned him as the Highway Supt. The 2 complaints that were read in the Meeting weren't even official complaints and should never have been read out loud. The only complaints that

should be addressed in a BOS Meeting is one that is in writing, addressed to the BOS with the person's name on the complaint; is filing the complaint; or that person comes to a meeting and addresses the BOS in person. "The first complaint from Mike Dewkett is absolute nonsense. It's too cold and wet to be repairing roads. It's a great time of year to be doing tree maintenance before leaves begin growing on the trees. The second complaint made by Brian Dewkett is nothing but slander. We did not haul a single log to a Selectman's house to be processed on a wood processor. We do not deny anyone firewood that needs it, and who is a town resident. We make every effort to clean up debris from wood cutting or excavating anywhere in the town where a mess has been created. Logs are left along the roadside, and people with tractors drive off the edge of the road creating ruts in the waterways that we have to go back and clean up afterwards. This is what happened the first day we ran out of time to clean the wood up on that day. The following morning, the wood we had left had all been picked up sometime between the time we left and when we returned in the morning. That same day, a resident from Worthington stopped to ask about the wood. Supt. Russell explained that Peru residents would have the first option on the wood. The resident from Worthington explained to me that he had driven by the night before to look at what was left from the previous day, but Brian Dewkett was there taking all the wood. It's my belief that's why Brian made such slanderous attacks about Ethics Violations against me and a Select Board Member. I'm extremely fed up with the attacks Brian has made against me in the last 6 months. I'm not the only one he has attacked. As a Town Official he constantly attacks all the other departments and official including the BOS, Police Dept., Town Administrator and any other person that isn't doing things the way his view suggests we should be doing our jobs. My question is how long is this going to be tolerated? He does not represent the Town of Peru as an appointed Official as one should. I have never attacked another department or Town employee the way he has. I've also never heard another Town Official attack another department in such a way either. I don't think he represents the Town of Peru in a mature and professional manner and would like to see all this nonsense and slander come to an end. In the last 2 weeks, I felt very unsettled over this situation. I'm asking the BOS to take this matter serious and have a complete review of the Fire Chief's appointment to his position." (*See Highway Supt. Report*)

Mr. Munch said we did address some of this because the minutes haven't come out yet. Some of these issues have been addressed directly by the BOS. It was made clear and was agreed upon by the BOS that no more complaints be brought to the BOS the way they were delivered as text messages and the complaints would be looked into before they were brought up officially at the meeting. We agreed to that in the Minutes. Mr. Cullett said Supt. Russell has a valid point about a complaint being made against him through text messages without him being notified that his name was going to be brought up. He is an employee and is afforded those protections and we have to keep that in mind as a Board. Mr. Cullett said he received this message at 5:51 P.M., just before the meeting and had not looked at it, but read it in the meeting, not knowing what was in it.

Town Administrator – Caleb Mitchell reporting

TA Mitchell said we're still waiting on the legal opinion from Town Counsel regarding the Vocational Transportation invoice. He followed up with another e-mail letting Counsel know we needed an opinion ASAP since that invoice is pending. He received a response today saying we'd get an opinion by the end of the week. This raises another question about the e-mail he got from Dufour when he asked about the invoice. Dufour made a statement in their e-mail that some districts were paying 75% of the cost of transportation, which raised the question regarding that some of CBRSD expenses have gone down. TA Mitchell said he may want to talk to our School Committee Member to see whether we could get some kind of credit for funds that we've already paid. Mr. Cullett said there's probably a reduction in operational costs. He thinks we need to ask CBRSD to let us know what those are.

TA Mitchell indicates Peggy White of the Health Dept. came in and provided some face masks with instructions. They are for anyone needing one.

As discussed at the 3/30/20 BOS Meeting regarding the removal of a Member of the Historical Commission, we received a legal opinion from Town Counsel that suggests contacting the Member and talking to him about it. Mr. Leach will contact him. (*See Town Counsel Opinion Historical Comm. Member*)

TA Mitchell provided the BOS with a copy of the "Transfer Station Pay as You Throw Policy" that the BOS voted on and will need to be signed by Mr. Cullett and Mr. Munch. As the Transfer Attendant, Mr. Leach recuses. Before signing the Policy, Mr. Cullett asked TA Mitchell to change it to read up to 33-gallon bags or 33-gallon containers being the maximum container size. Anything larger than that will require 2 bag stickers. If it's smaller than 33 gallon in size, it's still 1 sticker. He also wants to add "The Transfer Station Attendant will determine the size of the bag or container if there's a question." TA Mitchell will make those corrections and will present the revised Policy to the BOS for approval and signature. (*See Draft of Transfer Station Pay as You Throw Policy*)

Regarding Free Cash, TA Mitchell said he doesn't have an updated report at this time. He said Treasurer Wendling and Sharon Gruele were supposed to meet last Tuesday to make another attempt to see if they could find the \$12,000.00 discrepancy. This should be the last attempt to reconcile the difference. If not, then we may have to report it and the BOS will have to decide at that point if we can move forward to certify Free Cash. Mr. Leach agrees and said it needs to be sent in. TA Mitchell will see Treasurer Wendling and Sharon Gruele on Friday and tell them to certify Free Cash. TA Mitchell said he can't imagine an Annual Town Report without a report from the Town Accountant. We don't know who's doing the report. Is it Assistant Accountant Gruele or is it Accountant Osborne? The whole reason to have Sharon work with the Treasurer is to try to close the books and certify Free Cash because Accountant Osborne came in at the end of that Fiscal Year. Who's going to do the Annual Town Report? Mr. Cullett said the way he understands it is to run a report in the software system on the data from that year. It's all based on work that's not hers, but she can run the report and print it out. TA Mitchell will talk to Accountant Osborne about that. He said we have to certify Free Cash and close the books before she can do that.

TA Mitchell said the Electrical Inspector wanted a copy of the fees. Mr. Leach said he obtained a copy for him. The Wiring Inspector said he would like to go over the fees and make up a list more professional and bring it to the meeting sometime to have it approved.

Item 6: Discussion and Review of Draft Policy for Plowing Private Right of Ways

Mr. Cullett said that in the 8/13/18 Meeting the BOS discussed the private roads. TA Mitchell had given the BOS a copy of an e-mail he received from KP Law giving an opinion that basically said that in order to spend town funds & use town equipment to plow private ways, is basically discretionary and that we're free to establish that because there are equitable conditions upon which we're willing to authorize this service. It would be up to the BOS as to whether they wanted to authorize Supt. Russell to plow the road or not. However, they cited MGL Chapter 40 Section 50D. The procedures require submission of petition to the BOS before even considering it. Mr. Cullett said, "If we move forward with this and continue to ignore that requirement, I think we're making a mistake. We can't continue to do things just because that's the way it's always been. We need to go about this properly." Mr. Munch said MGL 40 Sec. 50D should be posted where people can see it before the ATM so that they could put a petition together. Mr. Leach said he'd like to go forward and discuss this Draft for the conditions of the right of way if we end up plowing the roads. TA Mitchell gave the BOS a copy of an e-mail that was sent to the Highway Superintendent regarding private right of ways. He said that one of the things that he told her, was that to even consider accepting all private right of ways as town roads/public ways, we wouldn't get enough money from Chapter 90 to make all the necessary repairs. Mr. Munch said the roads would have to be built up to state standards. Mr. Cullett said some of the setbacks on some of the smaller private roads down near the lake, the houses aren't far enough away. You couldn't turn those roads into accepted public roads. Mr. Cullett said he's all for continuing like we have been for the last 25 years if we do it properly and if the voters agree to it. TA Mitchell said he wonders if we should attach some kind of approved Policy for plowing the private right of ways as Supt. Russell has provided to us with the Article. Mr. Leach said he'd like to see that question on the ATM.

Mr. Munch said no matter what Town Counsel says it's not going to be legal. No matter what the town votes on or no matter what the town agrees to, it's not going to be legal. Mr. Cullett said there's a recommendation by Town Counsel that they've already provided us. Mr. Munch said once we make this an official thing, town trucks that are municipally insured are plowing private roads with them. We need to have a clear proposal on how this should be taken care of before we even consider it. ***Table Item 6 for further discussion. (See e-mail regarding private roads)***

Item 7: **Discussion and possible Vote to change Annual Town Election date to 6/27/20**

Mr. Munch said there is a possibility that the Election date could be re-scheduled again due to the COVID-19 restrictions. Mr. Cullett said we would work in accordance to CDC Guidelines and State Guidelines when it comes time for the Election. Town Clerk Leach has posted information about the Election taking place and has mentioned that she wants folks to come wearing face coverings.

*Mr. Cullett motions to change the Annual Town Election date to 6/27/20. Mr. Leach seconds. All agree
VOTE 3-0

Item 8: **Discussion and possible Vote to waive all interest and penalties on Real Estate and Personal Property Tax Bills until June 1, 2020**

At the last BOS Meeting of 4/6/20, Treasurer Wendling said she can waive up to \$15.00 in late fees. The BOS are in favor of leaving it up to the Tax Collector/Treasurer to waive the interest & penalties.

Item 9: **Discussion of Police Chief's job description**

Mr. Cullett recuses himself from the discussion per State Ethics Commission. We now have a job description for Peru Chief of Police that Chief Henault has provided. TA Mitchell said he prefers the Lanesborough Police Chief description. Mr. Leach said the only thing Lanesborough is missing which is in the one that Jeff Henault gave us is the hours. He said the salary should be in there. Mr. Munch said we don't put the money in the position when we hire someone. He thinks what we have from Peru is adequate, and when we have the interview, we'll discuss it. Anything that comes up for discussion with the candidate would be something that could be added to this as part of the discussion. ***(See Draft Police Chief job description) This discussion will be tabled until the next BOS Meeting of 4/27/20.***

Item 10: **Discussion regarding Animal Control Policy for temporary storage of stray animals**

During this discussion, Mr. Leach will be speaking solely as Animal Control Officer (ACO).

Mr. Cullett said that he and ACO Leach have discussed the potential for building an animal control shed. Mr. Cullett said he looked into Sonsini Animal Shelter and Berkshire Humane Society. He spoke with John Perreault from Berkshire Humane Society and has received an e-mail back from the Director of Sonsini Animal Shelter. In summary, Sonsini charges \$20.00 per day for hosting a stray dog. Those fees would be billed to the owner of the pet when the owner comes to pick up and claim the pet with no cost to the town. If the owner cannot be found or no one comes to claim the pet, then it becomes the shelters responsibility to re-home the pet. They would then re-coup those fees with a new adoption fee, leaving no cost to the Sonsini Animal Shelter. Berkshire Humane Society is \$25.00 per day. John said those fees could be collected by the Berkshire Humane Society from the pet owner who comes to claim the pet. If it becomes their responsibility to re-home the pet, they will have to charge the town. One thing that he was adamant about is that they dislike quarantining any animals that have bitten somebody. Mr. Cullett told him that the last few times an animal had to be quarantined at their home. The owner is responsible for quarantining for 10 days. At Berkshire Humane Society, John Perrault said they would work with us as much as possible. The City of Pittsfield has a contract with them, in which they pay to have

kennel space all year long. John said he could always find a place to house a stray dog. The reason for this discussion is when looking behind the Highway Garage, we're limited on space. The original plan was behind the salt shed for an ACO shed for the last couple of years. It hasn't come into fruition and is not a good place with the salt. ACO Leach said he has a kennel at his house which is segregated where he can keep a quarantined dog. He said at Sonsini's, they don't have a place if the dog has to be quarantined. ACO Leach said that usually within a day or two he can usually find the owner. Mr. Cullett said, "The issue is having an animal at your home with your other animals around, there's a risk of spreading potential diseases." ACO Leach said he set it up so they are completely segregated. He said, "Out of courtesy to the town, I don't like to get somebody's dog, then a day later have to tell them they have to pay a bunch of fees at the Humane Society in Pittsfield. I'd like to use these as a backup and still give the ACO the discretion." Mr. Cullett said, "I can't see the town being held liable for an animal that's kept at your house." ACO Leach indicates that with the Humane Society, you cannot bring them there in the middle of the night. Mr. Cullett said, "We have a kennel down here and have a doghouse. Temporarily, during nice weather, they can be kept there." Mr. Munch asked ACO Leach if he was opposed to this concept. ACO Leach said he would still like to leave it up to the ACO's discretion whether to bring it down there anyway, but there should be a time limit set where the dog should not be kept for more than 2 days at your house. Mr. Cullett said there's always discretion, but there has to be a Policy on exactly what the discretion is and what the limits are and when a dog should be brought to a professional facility. Mr. Munch said we both agree on that ACO Leach should have time to work this out, and it's a question of days, and that's something we can debate one way or another. Beyond that point, I agree 100% you go to a professional kennel. Mr. Cullett said "and fees to address the expense of it if a dog cannot be quarantined in its own residence, if it has to go to another facility, Berkshire Humane said they would do it. They don't like doing it but would do it. It's \$400.00, but that expense wouldn't be coming out of the ACO Budget. That would have to be paid by the owner of the dog, especially if they want the dog to come back to them. Mr. Munch wants to know if it doesn't, what happens? Mr. Cullett said if it doesn't then we would have to write a check to BHS, we have to recoup that money. We do that in the form of a fine and take the owner to court. Mr. Munch said what if you can't find the owner what happens. Mr. Cullett said if there's a dog bite and an unknown owner, then it would be quarantined and probably go up for adoption. In that case, the adoption fees would have to be collected at the shelter. A lot of this might be case by case. TA Mitchell said you'd have to draft a policy and bring it back on the agenda. ACO Leach said to give him at least 4-5 days. Mr. Cullett wants to know what the advantage is. ACO Leach said, "From my personal opinion, if my dog got out, and somebody else picked it up and brought it down there, I wouldn't like that because down there you take a risk of disease." Mr. Munch said he would go as far as 3 days. Mr. Cullett asked about weather if he has heated space for them. Mr. Cullett said he thinks maybe 3 days is probably reasonable. Mr. Cullett said Sonsini would be the first choice, then BHS. Eleanor Sonsini said the way they would set it up with me is they would give me a key in case it was in the middle of the night. ACO Leach said if were going to be adopted out, he would go to BHS, but if it's just going to be on hold, I'd like to see it at Sonsini's. Mr. Cullett said as far as veterinary care, obviously BEBE is on call. He's not open 24/7, but he's on call. If he's not available, Berkshire Veterinary is the only one he knows of that's open 24/7 as an emergency hospital. That's also money that would be recouped if the animal was dropped off for treatment in the middle of the night, is nursed back to health, then the animal goes to BHS when they release the animal back to the owner, they would recoup that cost. ACO Leach said there is a veterinarian in Peru who works for Berkshire Vet who has volunteered in an emergency to stabilize the dog. TA Mitchell will compose a draft policy to present at the next meeting.

Item 11: **Discussion and possible Vote to set up Agreement with local Animal Shelters to store stray Animals**

Item 11 will be tabled to next BOS Meeting of 4/27/20

Item 12: **Discussion and Review Town Hall/Community Center Electronic Sign or alternative Projects for Town's 250th Anniversary Celebration and Grant Application cost reimbursement**

Mr. Cullett said he has placed a number of phone calls and e-mail to Callahan Sign, none of which have been returned. Mr. Leach said he found a couple signs on-line that were a lot cheaper. They were about the same size; they had the color digital. He will get the website for the BOS so they can look at it on-line. We still haven't received monies from the Mass Office of Travel & Tourism. TA Mitchell will contact them regarding the Grant. Further discussion will be at the next BOS. Mr. Cullett said we still have the monochrome option. He we should keep going forward on getting some electrical bids for improvements behind the Fire Station and maybe have folks bid it in different stages so that we can see what the costs are and then cut it off at a certain level depending on how much we want to spend.

Item 13: **Discussion and possible Vote to change the Annual Town Meeting Date**

Mr. Leach said he'd like to move the ATM to Saturday 6/20/20. If it has to go further, the Moderator on the spot can extend it for 30 days. Mr. Cullett indicates one of the drawbacks to that is that there's little time following the ATM before the end of the Fiscal Year to have a Special Town Meeting in the event we need one. He said the 20th makes good sense, but we have to be prepared if there's a monkey wrench thrown into things. He said we can spend 1/12th of our current year's budget each month next FY. Mr. Cullett said wherever the money comes from it can only be 1/12th of the budget per month. The problem with that is first quarter of next FY, we have hefty, quarterly payments that have to be made whether it's for the school budget etc. That wouldn't be allowed under that formula.

*Mr. Leach motions to have the ATM on 6/20/20 at 6:00 P.M. at the Community Center. Mr. Cullett seconds. All agree. **VOTE 3-0**

Item 14: **Discussion and possible Vote on Library Status**

TA Mitchell has provided the BOS with another e-mail from Kathy Borden. Mr. Cullett brought up some issues from Kathy Borden's e-mail. He doesn't think there's an issue of who owns the building. We've always recognized it as a Free Public Library. We're still going to consider it to be a Public Library. Mr. Leach said she's referring to the Municipal appropriation requirement and state aid. We're still giving them what is required to get the state aid. One of the requests that Kathy made, and also Devon is to get a full copy of the e-mails going back and forth. Kathy asked for the letter that we sent to Town Counsel asking for an opinion. If there are other e-mails related to this, they'd like to see the whole package. Mr. Cullett said one of the good things to take away from Kathy's response was that she believes a written agreement with the town is a significant improvement. TA Mitchell said the latest e-mail we received from Kathy Borden makes an argument against considering what we're doing. It said something about the library submitting their invoices to the town. The expenditures are accounted for through the Municipal Financial System. On one hand, you're saying you want an agreement is a lot different than the argument they're making in this e-mail he received as of yesterday. This is making an argument against doing that. Mr. Leach said one of his concerns is, yes, we do get some of the bills from them, but we don't receive all of them. Mr. Cullett said what we've been told we need to do by our Town Counsel is quarterly reimbursements. All that information would come to us because we need that backup to write that quarterly check. It would be the library having to send copies of all those invoices and all the financials that back up what they're looking for. We would still be meeting the requirements. TA Mitchell asked if they would expend money and then get reimbursed. Mr. Cullett said yes. Mr. Leach said they still have to show the receipts and where the money went. Mr. Cullett said we have been told in no uncertain terms is what we're doing is illegal by our Town Counsel. The Auditor recommended whole heartedly against how it's being done when we paid for the Audit. We have a duty to follow through on this. If our Attorney is telling us that this is how the town has to proceed, what choice do we have. TA Mitchell will scan all the documents and send them to Town Counsel. *(See Town Counsel opinion regarding Library, Library correspondence and documents)*

Item 15: **Discussion of Fiscal Year 2021 Budget**

Mr. Cullett indicates that the BOS should urge the Finance Committee to call a meeting for some time next week. We have a lot of things to pull together still. Free Cash is the only real question right now. TA Mitchell said we don't have the number of students we're going to have for Vocational Transportation. Mr. Cullett said we could have it by next week if we reach out to CBRSD, or plan like we normally do with what we know plus one. Mr. Munch prefers to have a Finance Meeting in 2 weeks so we would have more numbers. Mr. Leach said he would rather have it in 2 weeks and have a little longer meeting to make sure we have everything we need. We never got a bid or proposal from the other IT guy. Mr. Cullett said he thinks we need to meet just on the budget issues, so we're prepared bringing in the numbers we have to the Finance Committee. We need to have our numbers for utilities, telephone, internet. Mr. Cullett said another thing we need to know is can Crocker supply our phone system through Spectrum because right now, we go through MBI's fiber at 10MG. Mr. Munch said Spectrum is 100MG He asked, "Wasn't Spectrum supposed to come in here and set up a commercial acct.? Wasn't that part of the original agreement? Mr. Cullett said free internet and tv service here at the town hall which we have downstairs. That connection is 100mg connection. We could use that and branch out in the Town Hall right now and have free internet. Mr. Leach said we'll get some numbers from the Accountant next week, then have the Finance Meeting in 2 wks. Mr. Cullett said he gave Finance Chair Pelkey some information on Open Meeting Law on how Finance could hold a meeting without having everybody present. He's concerned about those who have compromised immune systems bring them into the meeting. He could call in on speaker phone.

Item 16: **Review and Approve accounts payable, treasury warrants, payroll warrants**

Item 17: **Adjourn**

*Mr. Leach motions to adjourn the BOS Meeting of 4/22/20. Mr. Cullett seconds. All agree **VOTE 3-0**

The BOS Meeting was adjourned at 8:27 P.M.

Articles used:

4/22/20 Agenda
4/6/20 BOS Meeting Minutes
Draft of Transfer Station Pay as You Throw Policy
Highway Supt. Department Report
Town Counsel Opinion – Historical Comm. Member
E-mail regarding private roads
Draft Policy for Plowing Private Right of Ways
Police Chief Job Description
Town Counsel Opinion & Correspondence regarding Library
Library Correspondence and Documents
Vendor Warrants
Payroll Warrants

Respectfully submitted

Irene J. Morrison-

Administrative Assistant

Verne Leach, Chairman _____

Ed Munch, Selectman _____

Bruce Cullett, Selectman _____

Approved: ____5/4/20_____