



# MANCHESTER-BY-THE-SEA

BOARD OF SELECTMEN • TOWN HALL  
Manchester-by-the-Sea, Massachusetts 01944-1399  
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## MINUTES OF THE BOARD OF SELECTMEN

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March 1, 2021 6:30p.m. Virtual Meeting

Join Zoom Meeting, Meeting: ID 937 6760 4574, Passcode: 029007 One tap mobile: 1.646.558.8656

**MEMBERS PRESENT:** Mr. Boling, Mr. Bodmer-Turner, Ms. Jaques, Ms. Harrison and Mr. Round

**MEMBERS ABSENT:**

**STAFF PRESENT:** Town Administrator, Mr. Federspiel, BOS Clerk, Ms. Hunter, Town Moderator, Mr. Wilson, Town Counsel, Mr. Witten

**GUESTS:** Town of Hamilton, DPW Director, Mr. Olsen and Woodward and Curran Representative, Mr. Mavrogeorge

**PRESS:**

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Mr. Boling called the BOS meeting to order at 6:37 p.m.

Mr. Boling welcomed participants to the virtual meeting indicating the meeting was being recorded and minutes were being taken by Ms. Hunter.

Additionally, Mr. Boling saw a note on the website and wanted to clarify that Chairs are free to take agenda items out of order. If an agenda item has a time, by law, that item will be addressed at the time on the agenda or later.

- **Public Comment** – There was no public comment this evening.
- **Outdoor Dining Discussion**

Mr. Boling stated the outdoor dining discussion will cover the Governor announced that starting on March 1 capacity limits in restaurants were being lifted, but tables in restaurants must remain 6 feet apart. Mr. Boling understands there are resident concerns about dining indoor. Mr. Federspiel indicated there have been inquiries from local restaurateurs about the possibility of allowing outdoor dining starting as early as April.

Mr. Round indicated he believed outdoor dining had been kind of messy during the past summer and fall and would suggest changes to overcome the tumultuous appearance of the downtown area. Ms. Harrison stated April is not a really nice time of year and suggested postponing discussion and a decision for a few weeks noting that things are changing quickly.

Mr. Bodmer-Turner asked if Mr. Federspiel had heard from retailers. There was significant concern over lost parking spaces as a result of outdoor dining. Mr. Bodmer-Turner agreed April is not a great time of year and suggested doing something at the beginning of the season and stopping mid-summer. Mr. Bodmer-Turner also believes the Governor is moving quickly and the Town should wait and start thinking about implementing outdoor dining at the end of April.

Ms. Jaques expressed concern for restaurateurs in Town but thought retailers in Town had been able to recoup a bit. She asked if there were new guidelines and stated larger restaurants can accommodate patrons inside and understands why smaller venues may want to get a jump on things.

Mr. Boling suggested waiting for more guidance around State support for outdoor dining. The Town needs additional information and suggested a BOS or Town staff person follow up gathering information from restaurateurs and the State. Ms. Jaques agreed more information is needed. However, she believes the Town needs to be ready and would like to hear Mr. Federspiel's thoughts.

Mr. Federspiel stated he believes restaurateurs are very motivated to continue outdoor dining primarily because it builds capacity and he believes outdoor dining is a nice feature but agrees it needs to look better. Mr. Federspiel concluded it is worth working on and reviewing additional information that comes in from the State. Ms. Jaques stated she is comfortable waiting for more information. Mr. Bodmer-Turner indicated the Board needs information from the State, new guidelines for how far restaurants can expand their footprint and resolve the issue of displaced parking spaces.

Mr. Boling would also like information from the restaurateurs. He would like to know if patrons are supporting restaurants, are patrons willing to go into the restaurant and are restaurants filling up. Mr. Round agrees with Ms. Jaques stating we do not need to do anything right now. It is reasonable to wait a couple of weeks and put this back on the Board's agenda. Mr. Boling suggested reaching out to the State, Mr. Bodmer-Turner agrees that needs to happen as soon as possible. Ms. Harrison concluded the Board can remain flexible and see what changes occur during April.

- **Chebacco Woods Road Presentation**

Goals for Project

- Improve the condition of the paved roadway surface
- Improve safety for vehicles
- Maintain country road feel
- Limit impacts to woods and native species
- Reduce sediment runoff from gravel road
- Improve storm water management where possible
- Move road away from Gravelly Pond

Start of Project intersection of Essex Street & Chebacco Road

End of Projects intersection of Chebacco Road & Pine Street MBTS Townline

Project limits Approximately 10,670 Linear Feet (LF) of existing roadway

Project Overview

- Mill and Overlay approximately 7,295 LF of existing paved road Essex Street to Pearl Street
- Reconstruct approximately 3,375LF of existing gravel road
- Approximately 2,150LF of reconstructed gravel road is proposed to be paved within existing limits of Chebacco Road
- Back Pond Retaining Walls  
Project includes removal of 2 degraded wooden retaining walls (15 LF each)  
Replacing with two precast quality block retaining walls (20 LF and 40LF) with wooden guardrail

Important to MBTS

- Existing road along Gravelly Pond +/- 1,225 LF located within resource area buffers
- Project proposes to relocate a portion of Chebacco Road on MBTS property to add area between the new road and Gravelly Pond

Relocated Roadway Discussion

- Town of Hamilton holds two established ROW easement near Gravelly Pond  
40 feet ROW for existing roadway location  
40 feet 1964 ROW (not used)
- Goal of the project is to move the roadway from Gravelly Pond (surface water reservoir drinking water source for MBTS)
- Geotechnical explorations conducted in 1964 ROW to reveal shallow ledge
- Town of Hamilton, Massachusetts wishes to move roadway between existing and 1964 ROW

Easement

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|---|--|
| ○ 1964 ROW (to be transferred to MBTS)                      | 44,726 sq. ft.   |
| ○ Existing ROW (to be transferred back to MBTS)             | 31,272 sq. ft.   |
| ○ Proposed permanent easement to be transferred To Hamilton | 33,530   |
| ○ Net total area transferred                                | 42,468 sq. ft. to the benefit MBTS in expanded Conservation area |
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- Existing gravel roadway is located within Conservation Restriction (CR) area, Chapter 184, section 31 of MA General Law
  - Proposed land transfer between Town of Hamilton and MBTS is covered under Article 97 of the Massachusetts Constitution
    - Remove 33,500 sq. ft. of area from the CR area and create a permanent easement in favor of the Town of Hamilton
    - Restore 31,272 sq. ft. of the existing ROW (current gravel road) within CR
    - Donate 44,726 sq. ft. of the 1964 ROW CR area

Project Status

- Town of Hamilton Conservation Commission on 1/13/21 – Order of Conditions issued for the project
- An Environmental Notification Form (ENF) was submitted to MA Environmental Policy Act (MEPA) Office in June 2020
- Town of Hamilton and Woodward and Curran are in the process of finalizing project design plans, specifications and bid documents.

- Anticipated bid in May – June 2021
- Anticipated Construction in July – December 2021

Next Steps

- Meeting with MBTS BOS – March 1, 2021
- Meeting with general public Hamilton – March – April 2021
- Draft formal Article document – March – April 2021
- Annual Town Meetings – May 2021
- Finalize Article 97 legislation to vote June 2021
- Start Construction June 2021

Mr. Boling noted the Manchester, Annual Town Meeting was scheduled for the end of June 2021. Mr. Boling also asked where the paving would stop. Mr. Mavrogeorge stated the paving would stop just before the transfer station.

Ms. Jaques asked if the proposed time of year coincided with amphibian crossings from one pond to another pond. Mr. Mavrogeorge indicated he did not know exactly. However, he is aware the environment and wetlands are a sensitive habitat area. Ms. Jaques asked about tunnels to accommodate animal crossing. Mr. Mavrogeorge stated the construction would not change the elevation of the road and the tunnels in culverts along the project site are in poor shape and buried in sediment. The paving will decrease wash off from the road that settles in the culverts and improve the tunnels for crossings.

Ms. Jaques asked why the road is located where it is. Ms. Mavrogeorge stated the road is in the original location from 1964. The road was proposed to be moved away from Gravelly Pond but there was too much ledge to construct the road where proposed and residents objected. The new proposal maintains the country road feel and will be moved away from resources. Ms. Jaques also asked about the number of trees being removed and Mr. Mavrogeorge stated he did not have an exact count but the trees being removed are to open and improve visibility along the road.

Ms. Jaques asked why Hamilton is requesting to make this change now. Mr. Olsen replied the improvement has been an action item for Hamilton for a while. Maintaining the gravel road is a challenge and presents problems for safety vehicles, mail delivery and school buses. In 2019 the Town of Hamilton voted to pave the road and allocated funding for the project.

Mr. Round asked if this was the first MBTS presentation Mr. Olsen stated it was. Mr. Round was curious about maintaining the road mentioning at times it was well maintained and at other times it was difficult to drive on. Mr. Olsen stated the Town attempts to keep the road maintained but any storm will undo the gravel surface. Mr. Round asked if Mr. Olsen had spoken with Mr. Dam, DPW Director. Mr. Olsen stated he has had conversations with Mr. Federspiel and emailed with Mr. Dam.

Ms. Harrison asked if the road improvement had anything to do with the proposed development at the intersection of Essex Road and Chebacco Road. Mr. Olsen stated it did not this project has been in development for a few years.

Mr. Bodmer-Turner asked about speed mitigation. Mr. Mavrogeorge stated there would be signage and the road would be 20 ft. wide. Narrow roads encourage drivers to slow down. Mr. Bodmer-Turner asked about animals and wildlife crossings. Mr.

Mavrogeorge stated that would also be addressed with signage. Ms. Bodmer-Turner asked if a traffic study had been completed. Mr. Mavrogeorge stated no formal traffic study from Route 128 had been completed.

Mr. Federspiel asked for a quick summary of recommendations made by the Hamilton Conservation Commission. Mr. Olsen agreed to forward the recommendations and conditions set by the Hamilton Conservation Commission. Mr. Olsen stated the summary of the report was the Hamilton Conservation Commission supported paving the road, moving the road away from Gravelly Pond and the storm water management provided by the paved road.

- **40B Project Update/Discussion**

Mr. Boling stated a 40B Workshop is scheduled for Thursday, March 4, 2021 with the Developer who has provided detailed information on his request for waivers to the Town's Wetlands By Laws. The information was forwarded to the Conservation Commission and the Commission has replied. The Developer has not yet provided information on sidewalks.

The Developer is pushing for the Board to endorse the project and on Thursday the Board will be under pressure to decide which way we are leaning. An outstanding question is, can the Board come up with a set of conditions to approve under the Terms and Conditions the Developer provided. Mr. Boling stated the letter will be placed on the website for residents.

Mr. Bodmer-Turner asked if the Board had a written agreement with the Developer to pay for the peer review studies that were conducted. Mr. Federspiel stated the Developer had agreed to pay for the studies if he received a letter of endorsement and that was written in his early communication with the Board.

Ms. Jaques asked for clarification around the number of units and the proportion of the units. Mr. Boling agreed there was difference in the proportion from the original proposal with the addition of a 2+ unit. He will request that to be changed.

Ms. Jaques asked about condition #20 and compliance with wastewater and storm management. The Board has not seen a proposal for handling snow removal and plowing high banks along the road is not acceptable. Mr. Boling stated the Developer will be asked to provide a plan for snow removal. Ms. Jaques also stated she was curious about his request to tie into municipal sewer. Mr. Boling stated the Town's position is the Developer remain with his original proposal for on site septic. In negotiations people can ask for changes.

Mr. Bodmer-Turner asked if there is a condition that the Developer gets all the waivers requested. Mr. Boling clarified it is stated in #15 the Board will encourage the granting of waivers but it is up to ZBA to decide. Mr. Boling indicated the Developer will go through the normal approval process and waivers will be granted or not. Those decisions can then be appealed.

Mr. Boling noted the trade off for funding of Turf Fields is still in his letter and the Board had asked for those proposed funds to go to the Affordable Housing Trust

(AHT). Ms. Jaques stated that funding is contingent on the Developer receiving the MASS Works Grant. The Board agreed that funding for the AHT was the preference. Mr. Round stated it is a relevant donation.

The Board has asked for annual funding for a shuttle and the Developer proposed a onetime Capital Contribution of \$25K. Ms. Harrison stated an annual contribution is appropriate given that the building occupancy is not a onetime thing. The building is going to be in Town for a long time. Mr. Boling agreed. Ms. Jaques stated if the shuttle is not being used the value of the donation is lost.

Mr. Boling supports an annual contribution with details to be worked out during the Thursday meeting. Mr. Bodmer-Turner stated the Town has no plan for a shuttle without the development. If the Developer does not support the shuttle there will be no shuttle and that makes the development that much less attractive.

Mr. Federspiel believes the Town will suffer without a shuttle and proposed the possibility of working with CATA on morning and evening shuttle service to the MBTA station Mr. Boling indicated there are funds the Town pays to the MBTA that are available to use for a CATA supported shuttle (an extension of public transportation). The shuttle will be further discussed with the Developer and a more comprehensive analysis of funding sources developed.

Mr. Round asked about the follow up email regarding sidewalks and the need for a waiver from ADA requirement, in the email it was stated the state review board customarily granted waivers. Additionally, the Developer stated he did not see the value of a sidewalk from Route 128 to the Development. Mr. Round asked what his incentive was to deal with our interest in sidewalks. Mr. Boling stated he would ask the lawyer to craft our position. Ms. Harrison is interested is reviewing a rendering of the proposed sidewalks.

Mr. Boling stated the proposed conditions around irrigation is missing as is the no net increase in nutrient loading beyond borders and needs to be discussed on Thursday. Mr. Bodmer-Turner asked how that was measured. Mr. Witten replied the Developer has the ability to measure the levels through monitoring wells and pre-conditions and post-conditions levels can be measured and monitored quarterly for nitrogen and phosphorous. Mr. Boling stated this will be discussed at the Thursday meeting.

Mr. Rosmarin asked if the Town supports the CATA bus system. He also believes the expenses the project will cause exceed \$1M and put the Town further in the hole financially. There is no net benefit to the Town.

Mr. Bodmer-Turner stated he had not heard the Town was in a position the lose \$1M and was not comfortable with letting that stand. Mr. Federspiel stated the Finance Committee is working on a report and their numbers are not in line with the peer review projections. Mr. Federspiel indicated the peer reviews were completed by two well respected consultants and their projections are solid.

- **Annual Town Meeting: Date, Articles, FY22 Budget Discussion**

*Ms. Harrison moved to change the date of Annual Town Meeting under Chapter 39, Section 9 of Massachusetts General Laws to Monday, June 21, 2021 (proposed rain date is Wednesday, June 23, 2021), Ms. Jaques seconded the motion. The motion passed unanimously.*

Mr. Boling asked the Board if they agreed to move the 3 Articles proposed for 2020 Annual Town Meeting (ATM) to a Fall 2021 Town Meeting. The 3 articles address short term rental taxation, Water and Sewer liens from previous tenants to the responsibility of landlords and installation of sprinklers in multi-unit dwellings. All Board members agreed it was in the interest of brevity to move the articles to a Fall Town Meeting. The Board also agreed to move the proposed Planning Board reconfiguration to a Fall Town Meeting.

Mr. Federspiel stated the ATM will address the critical articles. Mr. Wilson stated he was in favor of keeping the meeting as short as possible during the pandemic. Mr. Bodmer-Turner asked about citizen petition articles and was it a requirement that the articles be addressed at ATM. Mr. Boling stated it was required, Mr. Bodmer-Turner confirmed it was required regardless of the number of articles. Mr. Boling confirmed it is required.

FY22 Budget – Mr. Federspiel stated the School Committee has scheduled an All Boards meeting for March 11, 2021 for both Towns to review long range plans for how the District budget will be funded. Mr. Federspiel stated the School Committee approved the District budget with a 3.5% increase. Essex has requested an increase of 2.5% and recommended the School Committee use reserves to cover the difference. Mr. Federspiel stated this sets up the need for an override sooner to support continued funding for the MERSD.

The Finance Committee is moving through the budget with a discussion on dispatch scheduled for this week. Dispatch and staffing for the Fire Department are two of the most significant issues outstanding. The Committee is reviewing the proposed Capital Budget. Ms. Harrison asked if the BOS would join the Finance Committee for the dispatch discussion.

- **Consent Agenda**

- BOS Meeting Minutes – February 16, 2021
- Letter of Resignation from Ryan Ackerman, Welcome to Manchester Committee

*Mr. Round moved to approve the Consent Agenda, Ms. Jaques seconded the motion. The motion passed unanimously.*

- **Correspondence**

- Letter from MassDOT re: Chapter 90 Highway Funding FY22
- Letter from Health and Human Services Secretary Sudders re: State Vaccination Distribution

Mr. Bodmer-Turner asked how much funding the Town received from the State in Chapter 90 Funding. Mr. Federspiel replied this year's amount was the same as last year for \$140,762.00.

- **Town Administrator's Report**

- ✓ Mr. Federspiel announced the Town has received a Seaport Economic Development Council Grant (\$800K+) for construction of a new ramp and floats at Tuck's Point. DPW is working to get the project out to bid. A second grant study has been funded to study the possibility of slips for Commercial Fisherman at Morss Pier at Masconomo Park. Thanks to Harbormaster Pike for his work on the grant proposals.
  - ✓ Planning Board and the LCD: Last Tuesday's forum went well with an exchange of ideas and options. Simboli's presentation of his build out for the MAC property received the most attention. Planning Board continues to study how best to modify existing zoning by laws.
  - ✓ With Adele retired and Helene about to retire both positions need to be filled. The Town Clerk is interested in pursuing other options to managing Board and Committee work through her office.
- **Other Matters, as May Have Not Been Reasonably Anticipated by the Chairman** – There were no additional matters this evening.

*Ms. Jaques moved to adjourn the meeting to go into Executive Session and not to return to Open Meeting, Mr. Bodmer-Turner seconded the motion. The motion passed unanimously.*

- **Executive Session:**
  - A) **Under M.G.L. Ch. 30A, sect 21 (a)(3) To Discuss Strategy with Respect to Pending Litigation Regarding a Personnel Matter.**
  - B) **Under M.G.L. Ch. 30A, sect 21 (a)(6) To Discuss Possible Real Estate Transaction.**

**Meeting Documents:**

- Consent Agenda as listed
- Correspondence as listed
- Presentation Materials Chebacco Woods Road
- Annual Town Meeting materials
- FY22 Budget
- Town Administrator's Report

**Upcoming BOS Meeting**

- Monday, March 15, 2021
- Tuesday, April 5, 2021