

Town of Easton CT
Board of Selectmen (Special Meeting) & Board of Finance (Regular Meeting)
–Joint Meeting Minutes

Date/Time: Tuesday April 2, 2024 – 7:00 pm

Location: Easton Senior Center, 650 Morehouse Road; also on Zoom

Recording: <https://vimeo.com/showcase/easton-board-of-finance>
<https://vimeo.com/showcase/easton-board-of-selectmen>

Attendees: BOS Members in person: Dave Bindelglass, Kristi Sogofsky, Nick D’Addario
 BOF Members in person: Art Laske, Andy Kachele, Ira Kaplan, Paul Skrtich, Michael Gutowski
 BOF Members on Zoom: Jackie Kaufman (joined meeting late)
 BOF Alternates in person: Gregg Saunders, Maureen Williams, Joe Glavan

Absentees: None

Guests: Christine Calvert, Treasurer and Finance Director
 Douglas Lomonte, Partner at law firm Berchem Moses
 Jonathan Arnold, Chief of Emergency Medical Services
 Bill Andrews, EMS Planning and Building Committee Chair

Call to Order: For BOF by Chair Art Laske at 7:05 pm
 For BOS by First Selectman Dave Bindelglass at 7:06 pm

Motion to appoint alternate Maureen in place of Jackie until Jackie joins meeting, by Ira/Mike. Result: passes 5-0. Art announces BOF Clerk Ira Kaplan will be Clerk for Joint Meeting.

1. (Agenda item #1 for both meetings) Presentation of Purchase and Sale Agreement of 444 Sport Hill Road. Art invites Dave to present. Dave summarizes status and invites Doug to explain legal aspects and answer questions. (See attached letter.) Discussion includes environmental testing, environmental conditions termination clause, success in obtaining approval from State Property Review Board, lease for License Area, and Reliance clause. Art notes there is no funding request at this meeting, and there will be no vote tonight. Bill Andrews discussed parallel activity for building planning and land planning. Need for upgrading the deficient septic system is discussed. Funding options for additional costs are discussed. Andy asks about funds from EMS Association.
2. Motion to adjourn BOS meeting by Nick/Kristi. Result: passes 3-0 at 9:14.
3. (BOF agenda item #2) Discuss and approve the meeting minutes of March 5, 6, 7, 12, 25 & 26, 2024. Andy notes 3/26 was Public Hearing not Meeting. Corrections to the minutes were noted:
 3/6 Andy notes reference should be to Litchfield County (not town), Ira notes Joe was absent not present.
 3/25 Maureen notes she arrived late but was present, not absent.
 Jackie is on Zoom and voting, Maureen is not voting.
Motion to approve 3/5 minutes as presented, by Andy/Mike. Result: passes 6-0.
Motion to approve 3/6 minutes as amended, by Mike/Jackie. Result: passes 6-0.
Motion to approve 3/7 minutes as presented, by Paul/Andy. Result: passes 6-0.
Motion to approve 3/12 minutes as presented, by Andy/Paul. Result: passes 6-0.
Motion to approve 3/25 minutes as amended, by Paul/Ira. Result: passes 6-0.
Motion to approve 3/26 minutes as presented, by Paul/Mike. Result: passes 6-0.

4. Review Budgets for the Following:

- a. EMS (9:19)
- b. ROV (9:46)
- c. Any other budgets as deemed necessary. (9:52)

Jon (a) says call coverage is now at 92% but with EMS Club formed at Sacred Heart University and their involvement with Easton EMS, we can improve to 95% coverage as EMS had in 2016. Dave says that because of concerns about coverage, he had recommended increased funding for more paid weekend staff. But with plans for more volunteers, Andy argues that increase can be tempered. Motion to reduce EMS (line 5119) from requested \$68,020 to \$48,000, by Andy/Paul. Result: passes 3 (Andy, Paul, Jackie) – 1 opposed (Mike) – 2 abstain (Ira, Art).

Maureen (b) described her experience in the past week as an early voting election worker, and agreed with the judgment of the Registrars of Voters that funding should not be reduced. There is also a new electronic voter check in system introduced this year, which workers have started using for the first time this past week. There is consensus to leave the requested budget unchanged.

Andy (c) asks about funding for new chairs at the library community room. Motion to reduce Library Capital line from requested \$12,000 to \$0, by Andy/Paul. Result: passes 6-0.

5. Treasurer's Report (9:55)

Gregg asks about interest income, Chris comments on collections.

6. Discuss and possible action on Munis Financial Report for appropriations and revenue presented by the Finance Director. (9:58)

No comment or action.

7. Discussion and possible action on 2024/2025 Budget. (9:59)

Chris updates us on the new total for the proposed FY2025 budget, \$49,967,940, reflecting changes, representing an increase of 2.87% over FY2024. Motion to recommend to a town meeting an annual budget of \$49,967,940, based on the revised budget proposal, by Ira/Jackie. Result: passes 5-1 (Paul).

8. Motion to adjourn BOF meeting, by Andy/Paul. Result: passes 6-0 at 10:03.

Next BOF meeting: regular meeting Tuesday, May 7, 2024 at 8pm in SSES.

Next BOS meeting: regular meeting Thursday, April 4, 2024 at 7:30 in Town Hall conference room.

Submitted 4/5/24 by Ira Kaplan, BOF Clerk and Meeting Clerk



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April 1, 2024

Board of Selectmen
Board of Finance
Town of Easton
225 Center Road
Easton, CT 06612

Dear Board Members:

First Selectman Bindelglass asked me to present to you the proposed Purchase and Sale Agreement (the “PSA”) for the parcel known as 444 Sport Hill Road (“444 SHR”).

Here is a summary of the key terms and time frames in the PSA.

1. The purchase price is \$160,000. A deposit of \$8,000 is due upon signing the PSA. The balance is due at closing.
2. The PSA includes a 60-day environmental conditions contingency, which allows the Town to terminate the PSA if the Town is not satisfied with the results of a peer review or any follow-up soil or groundwater testing that may be recommended by the Town’s consultant. See additional commentary on Page 3.
3. The closing of the purchase will occur within fifteen days of satisfaction or expiration of the environmental conditions contingency.
4. The purchase price is higher than the value of \$135,000 indicated in the higher of the two appraisals commissioned by the Town. The First Selectman believes that, under the circumstances, it’s reasonable to pay more than the appraised value for 444 SHR because 444 SHR has unique value to the Town. The First Selectman has concluded that, in order for the EMS construction project to move forward, the closing of the purchase of 444 SHR needs to be expedited and that that factor justifies paying a premium. The Town

intends to use State Urban Grant funds to pay the purchase price. Approval by the State Property Review Board was required as a prerequisite to use of the State Urban Grant funds because the purchase price is greater than the appraised value. The State Property Review Board approved the \$160,000 purchase price on March 28.

5. The Town will pay the Seller's legal fees subject to a cap of \$10,000.
6. The Town will cover the cost of the Seller's environmental consulting fees, that is, the cost of the Phase II Subsurface Investigation report commissioned by the Seller (the "Phase II").
7. As you know, the Seller of 444 SHR also owns the parcel at 450 Sport Hill Road ("450 SHR"). 450 SHR is the parcel located on the other side of the Easton VEMS building, as shown on the attached map prepared by Justin Giorlando. As outlined in the attached e-mail message from Justin Giorlando dated March 5, the Town will need access to 450 SHR for storage of equipment and materials while construction is in progress. The Town will license a portion of 450 SHR (the "License Area") from the Seller for a period of up to twelve months in return for payment of a license fee of \$2,500 per month. The terms of the license will be memorialized in a written Temporary Construction License Agreement.
8. Upon completion of the construction project, the Town will restore the License Area to its pre-construction condition and make certain reasonable improvements, including extension of the existing stone wall, planting six new trees and installation of new curbing.

I understand that concerns have been expressed regarding the importance of protecting the Town from liability for clean-up of spills and environmental contamination. It is certainly true that remediation of contaminated real estate can be very, very expensive. In extreme cases, the cost of remediating a parcel is so great that it effectively renders the parcel un-marketable, meaning that the cost of cleaning up the parcel is greater than the market value of the cleaned-up parcel. I understand also that, because the land at 444 SHR will be significantly disturbed during the construction process (i. e., excavation for the new septic field), concern has been expressed about what may be found once the digging starts.

In my experience, a common source of underground pollution is a leaking underground petroleum storage tank, referred to by the acronym "LUST". As part of the Phase II, WSJ used ground penetrating radar to rule out the presence of a LUST on 444 SHR.

Another concern is that contamination from a spill on the adjacent Easton Village Store parcel (440 Sport Hill Road) may have migrated (or leached) onto 444 SHR. WSJ tested soil and

groundwater samples from 444 SHR and found no evidence that any spills or releases of hazardous substances have occurred on 444 SHR. WSJ also found no evidence of a "plume" in the groundwater, such as that may have migrated from 440 Sport Hill Road. In my experience, trace or minute amounts of hazardous substances may be found even in virgin forest. So, it's not surprising that WSJ found trace amounts of petroleum-related VOCs and EPTH in the soil samples at 444 SHR.

I think that the key takeaways from WSJ's report are that: (A) 444 SHR is not an "Establishment" for purposes of the Connecticut Transfer Act, meaning that there will be no DEEP filings or certifications associated with the Town's acquisition of 444 SHR; (B) WSJ found no evidence that any spills or releases of hazardous substances have occurred on 444 SHR; (C) WSJ found no evidence of any abandoned LUSTs on 444 SHR; (D) the groundwater test results revealed no evidence of any potential plume in the groundwater; and (E) WSJ is not recommending any further sampling, testing or monitoring.

At the Town's request, WSP inserted a "reliance clause" in the Phase II, which recognizes that the Town may rely upon the validity and accuracy of WSJ's methodology and analysis to the same extent as the owner of 444 SHR. It's common for environmental engineering firms to insert reliance clauses in environmental reports when it's understood that a prospective purchaser or lender will be relying on the validity and accuracy of the firm's work.

As I mentioned in my e-mail message of January 26, if the Town wishes to err on the side of caution, the Town may retain an independent LEP as a consultant to do a "peer review" of WSJ's methodology and analysis. Aside from the expense, I believe that there is no downside to the Town of having a second environmental engineering firm review the Phase II. The 60-day environmental conditions contingency clause included in the PSA should afford the Town adequate time to complete a peer review and any follow-up inspections, sampling and testing that may be recommended by the Town's consultant. Follow-up inspections, sampling and test results could also be incorporated into a new Phase II report if desired by the Town and/or recommended by the Town's consultant. If the Town is not satisfied with the peer review report or the results of any follow-up inspections, sampling and testing, the environmental conditions contingency clause will allow the Town to terminate the PSA and obtain a refund of the deposit. I believe that it's important to note, however, that a more likely outcome would be further negotiations with the Seller as to how any required remediation might be carried out and how the cost would be covered. Bear in mind, too, that, if necessary, the 60-day contingency deadline may be extended by agreement with the Seller.

While risks exist in the purchase of any real estate where prior uses may result in environmental concerns, I believe that the Town's actions to date in securing a Phase I Environmental Site Assessment and following up with the Phase II are key and appropriate steps that serve to lessen the Town's exposure to potential environmental remediation costs. In my opinion, the inclusion of the environmental conditions contingency clause in the PSA provides the Town with appropriate tools to further reduce that exposure. Based on (1) the credible Phase

II sampling and tests performed by the Seller's environmental engineering consultant and the issuance of the "reliance clause" in favor of the Town; (2) the lack of evidence that any underground petroleum storage tanks exist on 444 SHR; (3) the lack of evidence of migration of hazardous substances from the 440 Sport Hill Road parcel, or that a "plume" in the groundwater exists; (4) the inclusion of an option for the Town to commission a "peer review" of the Phase II and to perform its own independent inspections, sampling and testing, which may be incorporated into a second Phase II report, if desired; and (5) the Town's right to terminate the PSA and obtain a refund of the deposit if the Town is not satisfied with the "peer review" and any follow-up inspections, sampling and testing. I believe that the Town's legal interests in the purchase of 444 SHR are well protected. I hope that this letter and your own review of the Phase II provides you with the information necessary to make an informed decision about your next steps with regard to the environmental status of 444 SHR.

Please let me know if you have any questions or comments.

Sincerely,



Douglas E. LoMonte

Attachments

- Map Showing License Area
- E-Mail Message from Justin Giorlando of March 5

cc: David Bindelglass