



## **Board of Selectmen**

**Ware Town Hall, Meeting Room, 126 Main Street  
Regular Meeting Minutes – Tuesday, July 7, 2020 at 7:00 p.m.**

**Instructions for call in option: at or before 7:00 p.m., call the phone number below and when prompted enter the Meeting ID number. The platform is Zoom Meetings.**

**Join online: <https://us02web.zoom.us/j/7846041861> (the online option will require a download).**

**Meeting ID: 784 604 1861**

**Phone: 929-205-6099**

**Present (Town Hall): Selectman Alan G. Whitney, Selectman Keith J. Kruckas, Selectman Nancy J. Talbot, Selectman Thomas H. Barnes, Selectman John J. Morrin, Town Manager Stuart Beckley, Building Inspector Anna Marques, Planning Director Rebekah DeCoursey, Acting Fire Chief Chris Gagnon, Historical Commission Chair Lynn Lak, Historical Commission members Kathy Galford and Claudia Kadra, James Kadra, Cathy Cascio, Conlin Whitney**

**Present via Zoom: John Carroll, Hardwick Board of Selectmen Kenan Young, Kelly Allen, Julie Quink**

**Absent: None**

**Meeting Opened by Chairman Whitney.** A moment of silence was observed for Cindi LaBombard, who passed away on July 1, 2020. She was active in Ware Historical Commission, Ware Historical Society, Ware Center Meetinghouse and Museum, Friends of Quabbin, Ware Community Theatre, American Legion Women's Auxiliary, Ware Remembers and many philanthropic and community endeavors.

### **Board of Selectmen Reorganization**

**Selectman Barnes nominated Selectman Whitney as Chairman. Selectman Kruckas seconded the nomination. The motion passed unanimously (5-0).**

**Selectman Barnes nominated Selectman Kruckas as Vice-Chairman. Selectman Whitney seconded the nomination. The motion passed unanimously (5-0).**

**Selectman Whitney nominated Selectman Barnes as Clerk. Selectman Morrin seconded the nomination. The motion passed unanimously (5-0).**

### **Opening Remarks, Announcements, and Agenda review by Chair**

Chairman Whitney noted that he made a statement at the June 16, 2020 meeting regarding Teresa's Restaurant and "free drink night". He has spoken with the owner and he acknowledges he misspoke and there is no "free drink night" at any establishments.

Selectman Barnes thanked all who voted for him as Selectman.

### **Consent Agenda**

- **Approval of June 16, 2020 Minutes**

Selectman Talbot made the motion to approve the consent agenda. Selectman Kruckas seconded the motion. The motion passed unanimously (5-0).

Selectman Kruckas questioned the progress of the Regional Animal Facility. He stated that the Animal Control Officer does not return phone calls and is unreachable. Mr. Beckley stated that received bids were too high, and the current shelter is in a flood plain and a better site is needed. The committee is looking at alternatives such as working with Pathfinder to improve and make a better facility. He noted the ACO is back from a leave of absence and should be answering all calls.

### **New Business**

- **Resignation: John Morrin, Parks Commission**

Chairman Whitney thanked Selectman Morrin for his service on the Parks Commission and welcomed him to the Board of Selectmen.

- **Announcement of Vacancies**
  - **Parks Commission (1)**
  - **Planning Board Alternate (1)**
  - **Conservation Commission (1)**
  - **Council on Aging (4)**
  - **Cultural Council (1)**
  - **Finance Committee (2)**
  - **Capital Planning Committee/Finance Committee Representative (1)**
  - **Tax Increment Financing Authority/Finance Committee Representative (1)**
  - **Pioneer Valley Regional Transit Authority: Selectman Representative**

Selectman Talbot noted that if the representative to the PVTA Advisory Board is not a Selectman, the representative cannot vote. Selectman Barnes noted that the Conservation Commission is down to four members, and DEP will get involved if this remains. He noted the need to recruit new members. Chairman Whitney encouraged citizens to get involved!

Selectman Kruckas made the motion to appoint John E. Carroll as designee representative to the PVTA Advisory Board. Selectman Barnes seconded the motion. The motion passed unanimously (5-0).

### **Old Business**

- **Forefront Solar Agreement**

Mr. Beckley noted that the Board proposed certain conditions regarding repairs and maintenance. Mr. Beckley noted a letter received from Mr. Ed Switzer with concerns of what is to be done in six months, noting the Town should make the erosion repairs, and all is dependent on the agreement with National Grid. Health Director Judy Metcalf and Attorney Wojcik do not think these are good options as Forefront accepted a condition to make repairs when the lease was originally drawn. Mr. Beckley noted that Mr. Switzer will come speak to the Board. The issues are at the cover of the cap, not at cost of \$100,000. Selectman Barnes questioned the cost of mowing and could the area be grown and hayed by a local farmer. Mr. Beckley noted that is not feasible. Chairman Whitney requested all costs to repair, mow, and maintain the site.

## Scheduled Appearances

- **7:15 p.m. Public Hearing RE: 114 Main Street**

Chairman Whitney announced the public hearing is opened pursuant to Massachusetts General Law Chapter 139, Section 1, to determine whether the building located at 114 Main Street, Ware, MA, constitutes a nuisance to the neighborhood or is dangerous, and if so whether an order should be issued prescribing its disposition, alteration, regulation or demolition and removal.

### **Daniel Barenboym, 114Main LLC, attended the public hearing.**

Chairman Whitney requested Building Inspector Anna Marques speak to the Board of Selectmen on this issue. Selectman Barnes noted the documentation presented to date to be the most comprehensive report he has seen.

Ms. Marques presented evidence of the owner's deed. Ms. Marques gave the following outlined statement:

We're here tonight because of the growing concern over 114 Main Street. The structure has been posted unsafe since 2011. Given the historical character of this building, there has always been hope for restoration. The timeline I submitted to the Board reflects the efforts that had been made.

The structure's demise began with a partial roof collapse of February 9, 2011. I do not have any record of permits pulled for any repairs from then until 2016, when a Violation for an unsafe building and public hazard was issued to the new owner. Upon the violation being issued, the property was then sold again the same month. The third owner, now (since 2011), filed for a demolition permit requesting the demo of the third floor after receiving a Violation issued in 2017. This began the process of the town's Demo Delay Bylaw. In August of 2018, the owner was asked to attend a meeting to address the future plans. Six months later, a fourth entity took ownership of the building. Town officials met with the current owner, once it was discovered who the owner was, one year ago this month. I had asked if I could view the property from the inside and was told "Not yet". At this meeting we viewed conceptual plans. I requested a Building Code Review which was submitted shortly after. A building code review addressed the proposed plan and covers the items which would need to be addressed. This code review would be required of a building permit application, which gave an indication of moving forward as the owner had stated they would be. With a major project like this, it is expected that design, producing construction documents, choosing a contractor and filing a building permit could take a few months. They did have a conceptual plan and they did have a registered design professional they were working with.

On May 7, 2020, I saw that the eave of 114 Main Street appeared pushing out closer to the abutting structure, 116 Main Street. On May 12, together with a structural engineer, we investigated what we could of the structure. I called the owner of 116 Main Street and asked for permission to access his roof. He obliged and together with the engineer we accessed the roof of 118 with a ladder through one of the skylights. Standing on 116, looking right through the window of the mansard roof of 114, I saw many piles of wood throughout the structure on that level. As I looked around, I saw holes through the floor leading to the spaces below. And similar to another structure which was recently condemned, I saw a configuration of tarps made to channel water from the leaking roof toward the inside of the exterior brick wall. The structural engineer provided his findings in his letter dated May 19, 2020. In it, he stated "It is our opinion that water leakage from the failing roof is deteriorating the wood roof members and the third-floor framing. As the roof framing fails, it is applying outward pressure on the brick masonry walls. With the advancing deterioration of the third-floor members, the top of the brick masonry appears to be beginning to separate from the floor diaphragm." He also added, "Due to the building having had structural concerns for nearly 10 years, and the displacement of the roof members, it is our opinion that a partial structural failure is likely imminent. The building should be stabilized or removed as soon as feasible." I have photos from what we observed.

I want to add that I did reach out to a demolition contractor. He stated with a complicated condition such as this, he would not attempt demolition without a demolition plan submitted by an engineer. The building shows visible failure and weak points in other walls as well. The rear wall has a large hole and there are areas of brick showing signs of separation throughout. Another contractor has also offered his opinion stating the renovation costs would far exceed the estimated demolition, not to mention the difficulty of trying to find someone who would take the work of this on due to the unsafe conditions.

My concern is safety. This building is not safe to be in, to work in or to be anywhere near should it fail. The proximity of it being right at a public sidewalk and public way and an access drive to the rear (which does get used), and right next to another structure which contains a popular business and four apartment units warrants enough concern to demolish it. The longer it takes for action to take place, the more unsafe it becomes.

Chairman Whitney asked Ms. Marques her opinion; Ms. Marques said to demolish.

Selectman Talbot noted that delivered notices be entered into the record. Ms. Marques provided such notices.

Daniel Barenboym spoke to the Board. He began by stating there was false information, that he reached out to the previous owner, was introduced to companies, not related to the previous owner, he met with Town, his engineer came out two times and declared the building sound. He said he met with Stuart, Anna and Rebekah, and he said he was told that the Historical Commission would do a new moratorium and he asked if there were funds to help him.

Lynn Lak, Chairman of the Historical Commission noted that the Historical Commission worked hard with the previous building inspector and previous owner to identify whether the building could be saved, but the person who came to their meeting was not the real representative and the owner walked away. The Historical Commission would have appreciated if the Board approached us and talked to us, not read in the newspaper who is to blame. She noted that the Historical Commission didn't hold the owner back, but used the Demo Delay to work with the owner for safety concerns regarding the top floor.

Mr. Barenboym stated he was told by town officials that there would be a moratorium by the Historical Commission. Rebekah DeCoursey, Director of Planning and Community Development, stated she remembers the meeting differently and that the owner informed to town that he purchased the LLC so there was no need for a moratorium. Mr. Barenboym stated this was not logical and he did not record that meeting. Selectman Kruckas asked if the Historical Commission could place another moratorium. Mr. Beckley stated that is not the intent of a Demo Delay, and a Demo Delay is attached to a building not to an LLC. Mr. Barenboym stated the Historical Commission wanted specific shingles, and he bought the building a year ago, and his architectural firm reached out and measured on January 30, 2020. Selectman Talbot asked if this was the same firm as used by the previous owner; Mr. Barenboym answered yes.

Mr. Barenboym stated that the Covid-19 pandemic happened, and he had a Stage 4 cancer patient in his house, and he could not proceed. He stated that the delays by the town have killed the building, numbers do matter, and he received high quotes. He stated he asked town officials of any grants or funds, and he questioned why the previous owner was offered a \$750,000 grant. He stated he would love to do something with the building, but the leaking and other damage were inherited from previous owners.

Chairman Whitney stated this building's issues could hold up the Mass DOT project on Main Street, and this is not acceptable. Mr. Barenboym stated he reached out and is waiting for architectural firms. Mr. Barenboym stated that his architect/engineer entered the building and went to the third floor and said the wood pushed on bricks but there are no gaping holes, and his architectural firm has a report that the building is sound. Chairman Whitney stated that Mr. Barenboym must submit that report. Ms. Marques stated that the Tighe & Bond report is dated May 12, 2020.

Selectman Morrin questioned the amount of damage. Selectman Kruckas stated the damage is obvious even when driving by, and he questioned the cost to the town if the Main Street project is delayed. Chairman Whitney asked the deadline to resolve the Main Street project; Mr. Beckley noted that Mass DOT schedulers are working on that, but this must be resolved before they do the work causing vibrations in sidewalks which is scheduled for Fall 2020.

Selectman Talbot questioned why Mr. Barenboym did not bring the paperwork from his engineers this evening for the Board of Selectmen. She stated that the Board may need to schedule a special meeting. Chairman Whitney stated he had more questions. He asked Ms. Marques how comfortable she would be with the report from Mr. Barenboym's engineer. She stated she would not be comfortable as we have the Tighe & Bond report from May. He asked if there is a timeline to repair, can the Town help. Mr. Beckley noted that would have to go to November town meeting. Chairman Whitney stated that the report would have to convince Ms. Marques and the State that the building would not impair the Main Street project. Chairman Whitney told Mr. Barenboym to submit the report by this Friday (July 10, 2020). Mr. Barenboym asked what would happen if the Board voted to tear down the building; Chairman Whitney noted the Town would take Mr. Barenboym to court. Mr. Beckley noted that the Tighe & Bond report recommends a plan of demolition to take the top floor or whole building down safely.

Ms. DeCoursey noted that she directed Mr. Barenboym to QVCDC and banks, but banks say the building is not worth enough to rehab, and loans are not given for demolition.

Mr. Barenboym stated that he has also looked at private investment, but the project halted because of the pandemic. Ms. Marques noted that Mr. Barenboym did not answer any communications from her, even as she gave him her private cell number, since November, and then he called today before this meeting. Chairman Whitney stated that constant communication is mandatory. Selectman Morrin questioned if there are hazardous materials in the building; Mr. Barenboym answered no. Selectman Morrin asked if the building is insured; Mr. Barenboym answered yes. Selectman Barnes asked if there are small business loans; Mr. Beckley noted the CDC does not give loans on a scale to remove a building. Selectman Talbot noted that liability is an ongoing problem. Selectman Kruckas questioned what the town lawyer recommends; Mr. Beckley noted the email from town lawyer for the hearing process. Chairman Whitney requested the town lawyer to attend the July 21, 2020 meeting.

**Selectman Talbot made the motion to continue the Public Hearing to July 21, 2020, pending receipt of engineering report provided by the owner to the Building Inspector by 4:00 p.m. on July 10, 2020, acceptable by the Building Inspector and acceptable by Mass DOT. Selectman Barnes seconded the motion. The motion passed unanimously (5-0).**

- **Hardwick Board of Selectmen: Ambulance Agreement Review**

Hardwick Board of Selectmen Chairman Kenan Young, member Kelly Allen, and member Julie Quink attended the meeting via Zoom.

Mr. Beckley noted the current agreement expired June 30, with one year automatic renewal. The existing agreement for ALS services compensates Ware \$77,000.

Chairman Whitney asked if there were any comments from the Hardwick Board of Selectmen. Julie Quink stated that the committee met regularly until Covid-19, but communication was excellent. Selectman Kruckas stated that the agreement needs to be updated regarding training, insurance, and other details as the Ware Fire Department is down two positions. He questioned if private service would be better providers. Chairman Whitney noted the cost factor is important.

Acting Fire Chief Gagnon noted that the department has been able to keep up with the current staff. There have been 250 additional calls since June 2019. To cover Hardwick, we try to recoup 10% or \$140,000 for Advanced Life Support. The agreement now is on the light side of what is offered, billed out with receipts of \$90,000. Calls out of town generate overtime by calling in for coverage. Chief Gagnon stated he tried to isolate Hardwick calls which created 52 hours of overtime in the past year. He noted that Ware provides the highest level of pre-hospital care that can be offered in this area, and this is a tremendous service to the community. He stated a private ambulance would cost \$400-500 per day, and we must find where financial and logistically feasible to continue to offer services.

Chairman Whitney asked if ambulances did not go to Hardwick, would Chief decrease the department. Chief Gagnon stated no, when we took on Hardwick, the department was already taxed. The challenge is that some calls are geographically 18-20 minutes away, and the town may want to look at other community for that farther area. Selectman Barnes asked if services will increase when the Senior Living facility comes online. Chief Gagnon stated that facility is 119 units and similar in Connecticut and Ludlow average 250-350 calls to those facilities, often for evaluation or lifting. This use of our staff will have an impact on the community. Selectman Kruckas noted this will impact Hardwick. Selectman Barnes asked if Petersham or Barre have been asked. Chief Gagnon noted the importance of the committee to discuss these options. The department is still a fire-based EMS system.

Chairman Whitney noted that we have had this agreement for three years and should now be able to examine all related costs. Chief Gagnon noted that he has compared to Amherst, Shutesbury and Pelham with averages of 327 calls, and Ware is on the low side of billing. Northampton and Granby are billing higher. Selectman Talbot noted it has been approximately 4 years since rates were raised. Chairman Whitney requested a deeper dive on the numbers, including rate increases. Chief Gagnon noted transportation out of town has increased. Hardwick Chairman Young noted he could contact Barre, but would appreciate Wheelwright numbers from Chief Gagnon. Selectman Talbot noted the agreement will continue until discussion including rates. Chairman Whitney noted he did not realize we were that far below other towns' charges. Selectman Kruckas questioned if the \$15,000 was included; Mr. Beckley noted the amount of \$17,000 and it was approved at the June town meeting of Hardwick.

**Selectman Talbot made the motion to continue the discussion with Hardwick Board of Selectmen, with additional figures supplied, to July 21, 2020. Selectman Barnes seconded the motion. The motion passed unanimously (5-0).**

- **Update of Available Grants**

Chairman Whitney requested Mr. Beckley set a hearing in August with CDC to invite businesses to say what the Town can do to help Main Street businesses. Mr. Beckley noted that Ms. DeCoursey and Mr. Piechota are working on a grant for stormwater at Grenville Park.

### **Comments and Concerns of Citizens**

Resident Cathy Cascio congratulated Selectman Barnes and Selectman Morrin. She stated her appreciation of the Fire Chief's input regarding the ambulance agreement. She wants the Town to say "what are your priorities" to local businesses. She noted that grants often involve addition of an elevator, sprinkler systems and expensive upgrades to older buildings.

Selectman Kruckas questioned the progress of buildings near 114 Main Street; Mr. Beckley noted the Building Inspector is in contact with the owners.

## **Town Manager Report**

Mr. Beckley noted that leaf and brush days have been set for Saturday, July 18 and Saturday, August 15 from 9:00 a.m. to 2:00 p.m. at the Robbins Road collection site.

Mr. Beckley announced that Sgt. Adams has retired. Chief Crevier will bring 3, possibly 4, candidates to the July 21 meeting for Board approval, plus a recommendation for a promotion to sergeant.

Old Belchertown Road bridge: Four bids were received. The engineer is checking references on the low bidder. The project should move forward soon. The low base bid was \$172,000.

Water Treatment. Representatives from the USDA will attend the Board's meeting on July 21 to discuss the level of USDA participation and the Town's commitment, as well as the loan/grant process. The 2019 audit has been completed.

The Main Street project is moving along, focusing primarily on sidewalks and resetting granite for the next few weeks. Installation of the foundations for the traffic light cross arms will begin in two weeks. Mass DOT is aware of the concerns with 114 Main Street and is working on construction methods and scheduling to consider alternatives for the Town.

As the State enters Step 1 of Phase 3 of re-opening, town departments, particularly Health and Recreation are working hard to interpret the guidelines set by the State. More activities, including sports outdoors, and business types are able to open with plans and limits. The Town has been able to help concerts, theater groups, youth baseball and small business meet the requirements.

The Town, through the Planning and Parks departments, will submit a grant for stormwater improvements at Grenville Park.

Working with the School Department, the Town is receiving quotes on the supply of electricity. Based on early bids (final numbers due tomorrow), the Town and School will save costs compared with this year's rates. The Town should save \$10,000 to \$13,000.

The Army Corps of Engineers reviewed the Town's flood control system last week with the Parks Manager, Highway Supervisor, and me. They found the dikes well maintained with some maintenance of vegetation needed at various points in the system. They will write up an annual findings report.

Selectman Barnes questioned the Council on Aging's purchase of food at Big Y; could the Town save money by using BJ's or other. Mr. Beckley noted the hard work of the Council on Aging to purchase wisely.

Cathy Cascio questioned availability of grants for police positions; Mr. Beckley stated there were none at this time.

Chairman Whitney stated that the next Town department should now be audited. He also requested that the Executive Session tonight should be postponed to the next meeting.

**Selectman Kruckas made the motion to postpone the Executive Session to July 21, 2020. Selectman Barnes seconded the motion. The motion passed unanimously (5-0).**

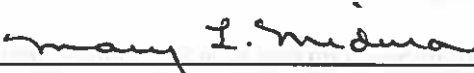


**Adjournment**

**Executive Session: M.G.L. Chapter 30A, Section 21 (a) #1 Discussion of Complaints Regarding Public Employee: Town Manager**

**Selectman Kruckas made the motion at 9:17 p.m. to Adjourn the Regular Meeting to go into Executive Session: M.G.L. Chapter 30A, Section 21(a) #1 Discussion of Complaints Regarding Public Employee: Town Manager, NOT TO RECONVENE IN OPEN SESSION. Selectman Talbot seconded the motion. The motion passed unanimously (5-0).**

Attest:



**Mary L. Midura, Executive Assistant to  
Town Manager**

**Minutes VIA TV15 Ware Community TV  
Live Broadcast and Video**