



BOARD OF SELECTMEN
TOWN HALL
365 BOSTON ROAD
BILLERICA, MASSACHUSETTS 01821
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Edward J. Giroux, *Chairman*
Andrew N. Deslaurier, *Vice Chairman*
Kimberly J. Conway, *Secretary*
Michael S. Rosa, *Member*
Daniel L. Burns, *Member*

MEETING MINUTES

APRIL 22, 2019

A regular meeting of the Board of Selectmen was held on Monday, April 22, 2019 at 7:00 p.m. in the Conway Hearing Room. Present were Selectman Edward Giroux, Chairman, Selectman Andrew Deslaurier, Vice Chairman, Selectman Kimberly Conway, Secretary, Selectman Michael Rosa, Member, Selectman Daniel Burns, Member, Town Manager John Curran, and Assistant Town Manager Cathleen O'Dea.

CALL TO ORDER

Open Microphone

No one was present for Open Microphone.

ANNOUNCEMENTS

Vacancies on Boards and Committees

Selectman Conway stated there were four openings on the Scholarship Foundation Committee. Selectman Conway stated this Committee gives out thousands of dollars in scholarships to the students in Billerica. She encouraged residents to volunteer for this Committee.

Selectman Rosa stated the Scholarship Foundation Committee is in the midst of one of its biggest fundraisers, "Class of", which follows students through their entire school career. Raffle tickets are now being sold. First prize is a Webber Grille and Accessories from O'Connor Hardware. The second prize is a \$300.00 car detailing from Marshall's Autobody, and the 3rd prize is two \$50.00 Gifts. Selectman Rosa encouraged people to purchase these tickets.

America's Yankee Doodle Town

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Chairman Conway stated The 2019 Billerica Clean Up Green Up Day has been scheduled for Saturday, May 4th with official times from 8:30 AM - 12:00 PM. This is a community effort to clear debris and trash from designated areas and plant flowers around the common areas of the town including buildings, parks, playgrounds, roads and public islands. Individual, corporate, community group and team volunteers are invited to register for an area that they would like to help beautify and get ready for the spring and summer. Anyone or groups interested in participating can visit the town website and register their target location. Bags, gloves and a limited number of trash pickers will be available for those looking for supplies. Those who cannot participate on May 4th are still invited to register for their project area for a different date.

All other announcements may be viewed on the Town of Billerica Website, Selectmen's Page.

MINUTES

March 18, 2019

Selectman Conway, seconded by Selectman Rosa, made a motion to accept the Minutes of March 18, 2019.

It was voted:

3 – In Favor
2 – Abstentions
(Selectmen Burns and
Deslaurier)

PUBLIC HEARINGS

7:10 p.m. Triple Sushi, Inc., d/b/a Nana Japanese Steak House, Change of Officers and Directors, and Change of Stock Interest for their Restaurant All Alcoholic License for Premises located at 199 Boston Road.

Selectman Conway, seconded by Selectman Rosa, made a motion to open the Public Hearing.

It was voted:

5 – In Favor
0 – Opposed

Chairman Conway recused herself from this item and left the Hearing Room.

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Ethan Ritterhouse, Attorney for Nana 7 came to the podium and explained the Officers and Stock changes for the Board. He indicated that Jamie Homechamp, previously approved as Manager is now the Treasurer. Attorney Ritterhouse further explained there had been a corporate conflict within the Corporate Directorship. He further explained that former Manager and Director, and Treasurer Yon Hao Wu is no longer affiliated with the Corporation.

Selectman Burns stated that he hopes the new members of the Corporation will take the right to have this Liquor License very seriously, as there have been problems in the past which has caused the Board to act on this Liquor License.

Selectman Burns stated he hopes they are successful and not come before the Board again.

Attorney Ritterhouse stated they are initiating new compliance procedures.

Chairman Giroux asked if there was anyone from the Public who wished to speak.

There were none

Selectman Burns, seconded by Selectman Rosa, made a motion to close the Public Hearing.

It was voted: 4 – In Favor
0 – Opposed
1 – Abstention (Selectman Conway)

Selectman Deslaurier, seconded by Selectman Burns, made a motion that the Board approve the Change of Officers and Directors, and Change of Stock Interest for Triple Sushi, Inc. d/b/a Nana Japanese Steak House for their Restaurant All Alcoholic License for Premises located at 199 Boston Road as presented as well as the Police Report dated March 27, 2019.

It was voted: 4 – In Favor
0 – Opposed
1 – Abstention (Selectman Conway)

Chairman Conway returned to the Hearing Room.

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7:15 p.m., Waveguide on behalf of Cambridge Network Solutions Fiber Optic Conduits Installation – 22 Linnell Circle

Selectman Conway, seconded by Selectman Rosa, made a motion to open the Public Hearing.

It was voted:

5 – In Favor

0 – Opposed

Mr. Chuck Harrington from Cambridge Network Solutions came to the podium for this item.

Selectman Rosa asked if there were any abutter concerns.

Mr. Harrington responded there had been none.

Selectman Rosa reminded Mr. Harrington, that in addition to the Street Opening Permit to contact Dig Safe as well to make sure there were no accidents.

Chairman Giroux asked if there were any questions or comments from the Public.

There were none.

Selectman Conway, seconded by Selectman Rosa, made a motion to close the Public Hearing.

It was voted:

5 – In Favor

0 – Opposed

Selectman Conway, seconded by Selectman Burns, made a motion that the Board approve the petition of Waveguide on behalf of Cambridge Network Solutions for the Installation of Fiber Optic Conduits at 22 Linnell Circle.

It was voted:

5 – In Favor

0 - Opposed

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OLD BUSINESS

Presentation of Community Funds

Recipients and Company Contributor Representatives were present for the Community Fund Presentation. Recipients came forward to receive their checks.

Chairman Giroux thanked the companies and congratulated the recipients.

Town Manger Report

-Fiscal Efficiency

-Professional Recognition

Mr. Curran highlighted items on his Town Manager's Report; i.e., the MDI Grant, Follow-Up and Review on "The Commons", Howe School/PHR-RFQ, Mosquitoes Spraying, Traffic Advisory for the Middlesex Turnpike, Clean Up Green Up, Cable Ascertainment Process, and the Housing Trust Balance.

Selectman Rosa commenting on the MDI grant expressed concerns on potential "strings attached". He also stated that he heard Mr. Curran say that he had submitted the original plans that had been voted down. Selectman Rosa stated he had concerns with those plans. He also clarified with Mr. Curran that the plans would be reviewed and then receive suggestions.

Mr. Curran stated they would be coming from 2 perspectives; one the plan is several years old and the other what does the plan offer and does it make sense.

Selectman Rosa asked if Mr. Curran had submitted the plans that included the suggestions that had previously been made.

Mr. Curran stated he had and also two or three others.

In regards to "The Commons", Selectman Rosa commented on the families that had to go to court for housing and when there was a judgement against them, the management company terminated their leases.

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Mr. Curran stated that he is aware of the 5 cases brought before the court and they were not for what Selectman Rosa stated. They were partially true. They were for legal issues that did not involve the Town.

Selectman Rosa asked at the conclusion of the court hearings were their leases terminated.

Mr. Curran yes, and others as well.

In regards to the Howe School, Selectman Rosa commented that he hopes the historical artifacts will be incorporated in the design for BATV.

Mr. Curran stated this was the intent.

Selectman Rosa suggested discussing and advertising the mosquito spraying earlier in the process.

In regards to the Middlesex Turnpike, Selectman Rosa stated he has been told that the trucks are starting earlier than 7:00 a.m. even though the state has talked to them about it. Selectman Rosa asked if there was anything else the Town could do.

Mr. Curran stated he had forwarded Selectman Rosa's e-mail to the Engineer. She is the best person when dealing with the state for making sure the trucks are accountable for starting and stopping at the correct times.

Selectman Rosa also asked about the possibility of getting water trucks to the site to mitigate the extreme dust for the neighbors.

Mr. Curran stated he would check into doing that especially as it gets closer to summer.

Selectman Rosa stated he heard they would be doing night paving.

Mr. Curran stated he would be looking into that..

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Selectman Rosa stated he is happy that the balance for the Housing Trust is increasing. He stated that he and Selectman Giroux are on the Affordable Housing Trust, and are trying to get more affordable housing in town.

Selectman Conway stated that the MDI Grant is a great opportunity. She further stated that she hopes that the street scape is kept as it was all the way through.

Selectman Conway spoke on "the Commons" situation. She stated that the Town did exactly what they were supposed to do and probably more. Selectman Conway further stated she is disappointed in the fact that there was so much misinformation on Social Media. She urged people to check carefully the sources of Social Media, and make phone to the appropriate individuals should they have any issues or questions.

Selectman Conway clarified with Mr. Curran on the savings and efficiency of hiring an OPM for all three of the projects; the Howe School, the Peggy Hannon Rizza Complex, and the Fire Station project.

Mr. Curran stated that he has done this before and it is more efficient then hiring a separate OPM for 3 small projects. Mr. Curran further stated that it will most likely be the same rate.

Selectman Conway thanked Mr. Curran for the balance on the Affordable Housing Trust.

Selectman Burns stated he is looking forward to the MDI Project. He stated that he agrees it is good to look back and reassess projects. He would like to see new ideas and concepts. Selectman Burns further stated that it is important to note that not everything with the original Center project was bad. A good part of the plan was the Center being redone. Selectman Burns commented on Selectman Rosa's comment on the left turn off of River Street. That would help greatly in keeping traffic out of the Center. Selectman Burns stated that one of the things to look at in an overall plan is keeping traffic from heading to the Center.

Regarding "The Commons", Selectman Burns stated he had no issues at all with the way the Town handled the situation. He stated he had spoken with several families that Sunday after the event and they told him that the Management Company was not doing what they should do.

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Selectman Burns stated it is a learning experience and you can always look for ways to improve. Selectman Burns stated he appreciates Mr. Curran doing that.

Selectman Burns stated he is looking forward to the Howe School project and seeing a building that will meet the future needs of the Community.

Selectman Deslaurier spoke about the revitalization of the Howe School and incorporating history with the live action of BATV. It is a great way to get people to visit the Museum. He also commented on the Billerica MDI project and the Billerica Mall.

Selectman Deslaurier commented on the Housing Trust Balance. There are many people, seniors, veterans, etc. who are on the list for affordable housing in this community. They deserve to have the opportunity to live in the Community they choose. The \$500,000.00 in the housing trust will not be enough when the average home in Billerica will go up to \$400K next years.

Chairman Giroux stated that he thought an objective view of what can be done in the Center would be good. The center is unique in its configuration.

Chairman Giroux asked Mr. Curran how often the Emergency Management Plans are updated and tested.

Mr. Curran stated it is on an annual basis. The Emergency Management Director is always working it.

Chairman Giroux stated he would be in favor of a by-law that compels Management Companies to have an Emergency Plan.

Chairman Giroux stated for the public that anyone who needs their yard sprayed for mosquitos can call the Mosquito Control Project at 508-393-3055.

Chairman Giroux encouraged residents to get out for Clean Up Green Up and thanked the DPW for their participation.

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2019 Spring Town Meeting Warrant Articles

Mr. Curran stated that there will be 3 Warrant Articles that the Board will not be voting on tonight. They will appear in the final warrant and the Board will need to take action prior to Town Meeting; possibly at one of the 6:00 p.m. meetings held before Town Meeting.

Article 4

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 4- the Collective Bargaining Agreement – IAFF Firefighters for FY 2017-2019.

It was voted: 5 – In Favor
0 – Opposed

Article 5

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 5 to fund Collective Bargaining Agreement – NEPBA Police Officers-Group A Patrolmen for FY 2017-2019.

It was voted: 4 – In Favor
0 – Opposed
1 – Abstention (Selectman Conway)

Article 6

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 6 – to fund Collective Bargaining Agreement – NEPBA – Police Officers – Group B Superior Officers for FY 2017-2019.

It was voted: 4 – In Favor
0 – Opposed
1 – Abstention (Selectman Conway)

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It was voted: 4 – In Favor
0 – Opposed
1 – Abstention (Selectman Conway)

Article 27

Selectman Conway asked if the use of reserve funds is included relative to this Article.

Mr. Curran stated that they are in both enterprise funds, reserves will be used to pay for smaller items.

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 27 to fund the Wastewater Treatment Plant Improvements.

It was voted: 5 – In Favor
0 – Opposed

Article 28

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 28 – To Fund Water Treatment Plant Improvements.

It was voted: 5 – In Favor
0 - Opposed

Selectman Rosa asked whether the new Ozone Purification System will result in any savings.

Mr. Curran stated there will definitely see some savings, but there are still the DEP requirements where some of the standards will increase.

Article 29

Mr. Curran explained that the first 3 items in the warrant article will be stricken. He is asking the Board to amend all of the overlay funded items be stricken with the exception of the Street Sweeper.

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Selectman Rosa questioned not being able to purchase this equipment when they are doing a onetime expenditure for a school contracts. He asked if the school could wait until free cash is available.

Mr. Curran stated that the school has to fund on July 1st. He further stated he will look at the equipment again when free cash comes out.

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 29 to fund the purchase of equipment for the DPW taking away items funded through the Overlay/Surplus except for the Street Sweeper.

It was voted: 5 – In Favor
0 – Opposed

Article 30

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 30 to fund Sewer Inflow Infiltration of \$237,000 II Account.

It was voted: 5 – In Favor
0 – Opposed

Article 31

Selectman Rosa asked for clarification on the lease/purchase terms.

Mr. Curran stated the final warrant will be adjusted to read “Up to 5 years” based on what can be negotiated.

Chairman Giroux asked if there was any law that it has to be an actual piece of hardware purchased or could it be a cloud based application.

Mr. Curran stated that he was not aware of any statute that prohibits that.

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Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen Article 31 authorizing lease purchase agreements for the TORO Groundmaster 5910 and servers.

It was voted:

5 – In Favor

0 – Opposed

Article 32

Selectman Conway, seconded by Selectman Rosa, made a motion that he Board of Selectmen recommend Article 32 to fund Town Capital Budgets from Previous Town Meeting Articles.

It was voted:

5 – In Favor

0 – Opposed

Article 33

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 33, To Fund Appraisal and Consulting Costs to Defend the Town in trials at the Mass Appellate Tax Board in the amount of \$189,429.31

It was voted:

5 – In Favor

0 – Opposed

Article 34

Town Accountant Paul Watson came to the podium with a list of rescissions of borrowing authorizations.

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend endorsing Article 34 to Rescind Borrowing Authorizations.

It was voted:

5 – In Favor

0 – Opposed

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Article 35

Selectman Conway asked if this particular article was part of the government not giving back to local access.

Mr. Curran stated it is a result of a town in Western Massachusetts who spent this money on things completely unrelated to cable.

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 35 to Establish a Revenue Account (PEG Access and Cable Related Fund)

It was voted:

5 – In Favor

0 – Opposed

Article 36

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 36-To Fund the Purchase and Installation of LED Street Lights.

It was voted:

5 – In Favor

0 – Opposed

Mr. Curran recommended that Articles 38 and 39 be withdrawn.

Selectman Conway, seconded by Selectman Rosa, made a motion to withdraw Article 38.

It was voted:

5 – In Favor

0 – Opposed

Selectman Conway, seconded by Selectman Rosa, made a motion to withdraw Article 39.

It was voted:

5 – In Favor

0 – Opposed

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Article 40

Mr. Curran stated that this article will enable the property in this district to be developed in a more positive way. It has been endorsed by the Planning Board.

Selectman Rosa expressed concern on adding this to an overlay without any plan in place. Specific plans should be submitted to Town Meeting before anymore overlays are added. He further stated he does not support adding anymore PUDs until there is a plan in place on what it is being used for and how they are going to coincide with any PUDs that are existing for an overall project. He encouraged Board members not to support this article.

Selectman Conway asked how many people had walked from the MAC's II property because they could get the 3rd property.

Mr. Curran stated at least 2 significant development prospects have walked away from that site.

Selectman Conway stated she would encourage voting for this article. She stated it would make it much more palatable to purchase the other properties.

Selectman Rosa stated that this not for or against MACs II. He would like to see it gone. This parcel is not MAC's II. They already have an overlay. That would give it 3 contiguous parcels with a PUD overlay.

Selectman Conway stated that MAC's II would be gone by now had Town Meeting originally passed this.

Selectman Deslaurier stated he is in favor of facilitating MAC's II leaving. This makes it much more viable. The homeowner of the property came to Town Meeting last time to help facilitate this change. Selectman Deslaurier stated he will be supporting this article.

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Selectman Burns stated he is concerned about just giving a blank check and hoping to get something that the Town wants. There is nothing saying that another establishment similar to MAC's II could take that property over and put in a bigger development. There is a risk to this as other of that type of establishment have expressed an interest.

Mr. Curran stated it is an arduous process for developers to go to Town Meeting. Town Meeting did not give up its rights. It made the decision that it goes to the Planning Board. The Planning Board notifies those who are directly affected by the project. Town Meeting does not do that. If it goes through Town Meeting, people who are directly affected may never know about the project. A PUD is a mechanism to entertain proposals and then decide.

Selectman Deslaurier asked Mr. Curran if adding the PUD District to an Adult Entertainment District extends the district.

Mr. Curran explained that you don't increase the chance of a strip joint going in there. You actually decrease the chances because they will not pay the price because the property is much more marketable. When you make a property more attractive, low end users usually go away.

Selectman Conway remarked that the board had endorsed Article 41 which would not allow liquor license at that location. She also stated that no builder would wait 6 months to go before Town Meeting.

Selectman Rosa cited several examples of Town House Overlay projects that went before Town Meeting, and then they went before the Planning Board. If a project went before Town Meeting, residents in that area would know via their representatives.

Selectman Giroux stated he would support this article. There is control on this project by the Planning Board which meets once a month and notifies abutters. This is a tool for development at that site.

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Selectman Conway, seconded by Selectman Deslaurier, made a motion that the Board of Selectmen support Article 40 – Proposed Zoning Map Changes to add PUD Overlay District.

It was voted:

3 – In Favor
2 – Opposed (Selectmen
Burns and Rosa)

Article 42

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen recommend Article 42 – To Acquire a Permanent Easement for Public Sidewalk Purposes at 464 Middlesex Turnpike.

It voted:

5 – In Favor
0 – Opposed

Article 43

Selectman Conway, seconded by Selectman Rosa, made a motion to withdraw Article 43.

It was voted:

5 – In Favor
0 – Opposed

Green Communities Designation Grant

Mr. Curran explained that the Designation Grant is a grant received once the Town becomes eligible for it. This grant will be used for the purchase and installation of LED Street Lights as outlined in Article 36.

Selectman Conway, seconded by Selectman Rosa, made a motion to use the Green Communities Designation Grant the purchase of LED Street Lights as outlined in Article 36 of the 2019 Spring Town Meeting Warrant.

It was voted:

5 – In Favor
0 – Opposed

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NEW BUSINESS

KHD, Inc., d/b/a High Octane Harley Davidson, One Chelmsford Road, N. Billerica, MA, Re: request for Beer and Wine License for Thursday, May 2, 2019 from 5:00 p.m. to 8:30 p.m.

No one was present for this item. The Board will not be meeting again prior to this event.

Adopt and Acceptance of Middlesex Turnpike Easements (164 Lexington Road)

Mr. Curran stated this has previously been authorized by Town Meeting. There are a few minor changes in the Easement requiring the Board's signatures.

Mr. Michael Boujoulian, Regional Partner, for Alliance Residential came to the podium and explained the easements. In response to a question by Selectman Conway, all of the easements grant more rights to the Town.

Selectman Conway, seconded by Selectman Rosa, made a motion to adopt and accept Middlesex Turnpike easements, 164 Lexington Road.

It was voted: 5 – In Favor
0 – Opposed

Adopt Amendment to the Traffic Rules and Orders-Salem Road Truck Exclusion

Town Engineer Kelley Conway came to the podium and stated this was an amendment to the Traffic Rules and Orders for a truck exclusion on Salem road running from Pollard Street to Floyd Street.

Selectman Conway, seconded by Selectman Rosa, made a motion that the Board of Selectmen amend the Traffic Rules and Orders-Salem Road Truck Exclusion as outlined by the Town Engineer, Kelley Conway.

It was voted: 5 – In Favor
0 - Opposed

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Adopt Order of Taking for Easements on Whipple Road

Town Engineer Kelley Conway stated this is for a traffic signal installation at the intersection of Whipple and Andover, which will require 2 easements. The Order of Taking states the Town is awarding no damages. Ms. Conway clarified that for each of the 2 properties, a signed waiver of appraisal was received and will be paying for their signed waiver of appraisal. Ms. Conway stated that was how Town Counsel was having the documents worded. It is paying for a waiver of damages so that they don't pursue the Town relative to the taking.

Selectman Conway, seconded by Selectman Rosa, made a motion to adopt the order of taking presented to the Board on this date, April 22, 2019, for the purpose of acquiring interests in certain lands abutting Whipple Road as set forth in the order to allow the Town to carry out the Traffic Signal Improvements Project.

It was voted:

5 – In Favor

0 - Opposed

Adopt Order of Taking for Easements on Baldwin Road

Ms. Conway stated this project was for the installation of a sidewalk on Baldwin Road and paving a section of Baldwin Road. There are easements relative to 4 properties to install sidewalks. Ms. Conway stated they have met with the property owners. The owners signed a Waiver of Appraisal form similar to the project in the last Agenda item.

Ms. Conway stated it had come to her attention today from Town Counsel that based on a title examiner review he recommends getting an additional sign off on 144 and 142 Baldwin Road because in one case the property is in a trust, and the other the owner had passed away. They did meet with the appropriate persons. However, Town Counsel suggested doing further research and get probate documents.

Selectman Deslaurier asked what Ms. Conway's time frame was and could this wait until she received the additional sign offs.

Ms. Conway stated that 144 should not be a problem, the other property might be different.

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Selectman Burns asked why the Town needs to be paying for an easement for these properties to install the sidewalks.

Ms. Conway stated that is because the right of way narrows along the roadway.

Selectman Rosa asked if the issues regarding parking with the property owners at 144 Baldwin had been resolved.

Ms. Conway stated the Town had met with them and resolved the issue by eliminating a portion of the grass strip.

Selectman Rosa thanked Ms. Conway for reaching out to the homeowners.

This item will be carried over to a future agenda.

ADJOURMENT

Selectman Conway, seconded by Selectman Rosa, made a motion to adjourn.

It was voted:

5 – In Favor

0 – Opposed

Chairman Giroux adjourned the meeting at 9:09 p.m.

MEETING SCHEDULE

May 6 and May 20, 2019

Nay7,9,14,16,21,and 23 prior to Town Meeting if necessary

A TRUE COPY ATTEST



Sue Aker, Recording Secretary