SELECT BOARD MEETING MINUTES
7:00pm, October 4, 2023
Town Hall, 557 Main Street, Becket

Attendees

Select Board (SB): William Elovirta (BE), *Chair;* Jeff Piemont (JP), *Clerk*
Remote: Chris Swindlehurst (CS), *Vice-Chair*

Staff: Katherine A. Warden (KW), Town Administrator; Beverly Gilbert (BG), Administrative Assistant;
Ambulance Department: Lisa Michaud, Co-Director; Max Koivisto, Co-Director; and Pete Wiley

Others: Bob Gross, Municipal Light Plant Manager; Bert Goodermote

Remote: Michael Lavery, Al Blake

1. **The Chairperson will call the Select Board meeting to order.**
   BE called the meeting to order at 7:00pm. He indicated the SB was recording the meeting.

2. **Pledge of Allegiance**
   BE led the Pledge of Allegiance.

   BE reminded the SB that due to that CS was participating remotely, all votes require roll call.

3. **Select Board to vote on Appointments**
   - **Julie Craumer, Energy Committee effective 10/4/2023 through 6/30/2026**
   - **Jeremy Dunn, WiredWest Alternate Delegate effective 10/4/2023 through 6/30/2024**
   - **Chuck Garman, Bylaw Review Committee effective 10/4/2023 through 6/30/2026**

   JP Moved to appoint Julie Craumer to the Energy Committee effective 10/4/2023 through 6/30/2026. CS 2nd. During discussion, BE mentioned that it is the SB's practice to invite applicants for board/committee appointments to a SB meeting, and he inquired whether BG had invited Ms. Craumer. BG indicated that she had. Al Blake indicated that Ms. Craumer had attended Energy Committee meetings. BE stated that he had wanted an opportunity to meet Ms. Craumer and ask for her positions on energy related matters including electric vehicles and fossil fuel usage. Roll call vote: BE – abstained; CS – yes, and JP – yes

   JP moved to appoint Jeremy Dunn WiredWest Alternate Delegate effective 10/4/2023 through 6/30/2023. CS 2nd. During discussion JP indicated that Mr. Dunn, member of the Broadband Ad Hoc Group, had previously served as a WiredWest Delegate, and Mr. Dunn would be taking JP's place since JP is no longer able to attend WiredWest meetings because they occur at the same time the SB meetings are scheduled. The SB members indicated that they know Jeremy Dunn, a longstanding town volunteer (current Broadband Ad Hoc Group member, former Finance Committee member) Roll Call vote: BE – yes; CS – yes, and JP – yes.

   JP moved to appoint Chuck Garman to the Bylaw Review Committee effective 10/4/2023 through 6/30/2026. BE 2nd. During discussion, BE indicated that Mr. Garman is a member of the Finance Committee. Roll Call vote: BE – yes; CS – yes, and JP – yes

4. **Discussion re: Washington Ambulance Proposal**

The SB agreed with KW and the Co-Fire Department Directors' recommendation to propose to the Town of Washington a one year-trial basis Ambulance agreement that entails charging the Town of Washington a $400.00 flat fee per call regardless if the person refuses service/transport and preserves the Town of Becket's priority in ambulance services. The Town of Becket Ambulance Department would also bill the insurance companies and retain all insurance payments.

Max Koivisto fielded questions relating to the Ambulance Department's September 2023 report and Ambulance Call Totals 2020-2023.

KW indicated that after the Governor releases grant opportunities, Becket and Otis will resume discussions and apply for funding to hire a consultant to analyze creating a shared Ambulance Department.

5. **Public Input (limited to 3 minutes per person, 20 minutes total for this agenda item)**
Bert Goodermote asked for permission to allow approximately fifteen to twenty registered/insured ATVs/UTVs/Five by Five off road vehicles to ride on sections of the town's right of ways and a portion of the roadside during various charity rides. Participants must be at least eighteen years old. Each ride would be devoted to a specific charity. Mr. Goodermote stated their charity related interests include the Cancer Society, aid/services for survivors of domestic violence, and abused pet rescue. Mr. Goodermote stated he received permission from the Environmental Police and has discussed this with the Becket Police Department and both are on board with this endeavor. The Environmental Police said if the Becket Police Dept. approves, the group needs to provide notification to the Environmental Police that includes the selected charity and the event date/time.

The proposed route: Bonnie Rigg Hill Road Campground to Hamilton Road to Lane Road to Route 8 to Benton Hill Road to Mr. Goodermote's property (location: 3235 Main Street). Except for the 7/10 mile Route 8 section, the vehicles will travel on town right of ways. Mr. Goodermote indicated the Police Department offered to volunteer their time to escort the group along Route 8 from Lane Road to Benton Hill Road and on the return trip on Route 8 from Benton Hill Road to Lane Road. The group would provide mowing maintenance on the right-of-way paths.

BE asked if Mr. Goodermote Goodermote's charity is registered. Mr. Goodermote replied that the Cancer Society told him they would send him their 1099.

BE expressed concern about town liability in the event of an accident on a public road or on the right-of-way of a public road if the town were to allow riding off-road vehicles in places it is not normally legal to do so: BE would want this vetted through Town Counsel. JP brought up that, in addition to liability, he would like Town Counsel to weigh in whether this will set a precedent that would obligate the town to allow other groups to conduct similar events/charity rides. The SB indicated that they are amenable to granting approval but before considering this further, they would like KW to seek Town Counsel's opinion.

6. **Esau Heel's Trail Update**
KW reported that Town Counsel confirmed Town ownership of all except one lot that had been previously sold before Tax Title but the town had subsequently bought it back within the thirty lot subdivision. Town Counsel is double checking that particular lot has clear title. Town Counsel stated if necessary, there is an easy fix to solidify town ownership. KW discussed Town Counsel's memo re:

the procedures to transfer Esau's Heel Trail to place it under the Select Board's jurisdiction or conservation. According to Article 97, placement in conservation is easy but removal from conservation is much harder. If we bring this to Town Meeting, a separate article would be needed to reserve three of the lots (approximately a little more than 10 acres) for municipal (non-recreational) use. One article would designate land into recreation-Select Board and the other would designate the three lots into Select Board-Municipal building. KP Law would pen the articles. KP Law researched the land to ensure it was properly foreclosed.

KW indicated that KP Law's memo addressed JP's concerns as to whether the town will be allowed to keep the land given the recent Supreme Court case that seems contrary to Massachusetts law. KP's memo cites U.S. Supreme Court's 5/25/23 decision Tyler v. Hennepin County, Minnesota. JP noted that the memorandum did not ultimately address whether that case could impact ownership, and also noted that there is a bulletin on the website of the Massachusetts State Land Court discussing open questions created by the case and even offering free pro bono lawyers to people who want to lodge complaints. JP stated that while he supports Esau's Heel Trail he does not think the Town should invest funding and effort into it, if there is serious risk the land could be taken away from the Town of Becket. JP questioned whether there is any statute of limitations on constitutional violations because they are not statutes. JP said although the Town did not take the land then resell it, one reading of the case could be that the Town may not retain the "profit" from land it takes for unpaid taxes/liens (towns must return the excess equity to the property owner). JP wants the risks assessed. One mitigating factor would be that any amount the Town might owe the owner might be offset by additional taxes and penalties and interest accrued since the taking. KW stated she can ask Town Counsel for an opinion about JP's question, but that rather than do nothing with the land because of these lingering unknowable's, we can move forward with using it and react to future developments when they confront us. KP Law stated that because committees cannot own land, land cannot be transferred to the Parks & Recreation Committee (it would have be held by the SB and overseen by the Recreation Committee).

KW stated that the trail would need to be under the Select Board's domain. JP stated he had understood that receiving Community Preservation Act funding for Esau Heel's trail was contingent upon the land being controlled by a conservation or recreation entity. JP asked Michael Lavery, who has been helpful with the trail endeavors, to comment.

- ML stated that the Community Preservation Coalition informed the town's Community Preservation Commission about this matter when the town requested additional funding for Esau Heel's Trail.
- This land control requirement extends to receiving CPC recreational-related funds for other town properties: North Becket Park, Becket Center Park/baseball field (next to the town hall) and the Town Beach.
- ML suggested that the Town Meeting Warrant article should include these properties.

KW will clarify if the CPC funding would mean that a town entity such as the Select Board would be sufficient or if the town would need to vote to transfer the control specifically under a recreational entity or a conservation entity and he indicated that being under control of conservation is not the same as being in conservation. Al Blake indicated that even if the town owns the3ropertyes, to qualify for funding, his understanding is that they would need to be under the control of a conservation entity. Al Blake indicated that CPC's concern is that they will provide funding for a

piece of land and the use may change (may invest in the trail and then the Town, since it owns the trail, can change the use for an office building or town facility). ML added that the reasoning behind CPA's requirement is that CPA funding has specific categories and after the town creates something from CPA funding, they would want it to remain in perpetuity. Al Blake suggested that perhaps the Conservation Commission can take the land over or placing it with the Land Trust. Al Blake suggested conducting a survey. JP suggested checking if instead of transferring the parcels to a specific entity, the town could file a restrictive covenant stating that the land affiliated with the trail would be used exclusively for conservation or recreational activities would satisfy CPC's requirements. KW stated that to avoid triggering Article 97, she would suggest eliminating the word conservation and state that the properties are and will, in perpetuity, be used for active recreation and /or open space passive recreation. CS stated that we should consider that whatever is best for the town now may not best for the town in fifty years and we cannot predict what our needs may be in the future. Because of this, he would place the land in recreation, not conservation status. Al Blake suggested clarifying this because his understanding is that the land needs to be under conservation control. KW stated that Attorney Smith had offered to remotely attend a meeting with the SB to field questions and concerns re: this matter. It was agreed that KW will arrange for such.

Per Al Blake's follow up, KW will remind the Highway Department to install an emergency gate and remove the boulders at the parking area entrance to the trailhead[JP1].

7. **Discussion and potential vote re: Fiscal Year 2017 Community Development Block Grant Lien (Town is lienholder) payoff for property located at 157 Washington Street**
The SB discussed the FY2017 Community Development Block Grant (Home Improvement) Lien on 157 Washington Street. The property owners indicated they wish to apply for a mortgage. As part of the process, they will need to know the payoff balance of the lien. Because the lien in in its fifth year and is under $30,000, the owner would need to pay off the lien to the town, not Berkshire Regional Planning Commission, unless the SB votes to forgive a portion or the entire lien.

KW indicated that the town has not received an official communication from the property owners' lending institution or their legal counsel requesting the payoff balance. JP discussed how subordination may be desirable given the higher interest rates, property valuation and the schedule of loan foregiveness. Per JP's request, KW will inquire whether subordination of the lien is an option.

8. **Discussion re: establishing a Town Hall meeting room rental fee for business use**
Laurel Lenski inquired about the potential to use Town Hall space, and whether the town would charge a rental fee for a Community Preservation Committee sponsored movement course offered to Becket and Washington residents. The SB agreed if the Cultural Council funds Ms. Lenski's recreational classes, she may offer them to our community at the Becket Town Hall (pending availability), and there would be no rental fee. The SB stipulated that the Cultural Council would need to provide written communication to the Select Board stating they support holding the series at the Town Hall.
9. **Broadband:**
   - **Vote on a Broadband Policy which addresses future broadband construction in the town**
   - **Vote to transfer $196,534 from the Municipal Light Plant account to the Town General Fund to offset 75% of the Broadband Debt Service that was paid in August 2023.**

- **Discussion re: other matters associated with the Broadband Network including Becket Woods, reels near the North Becket Fire Station, FY25 budget, documentation requested by the auditors, and other updates**

Municipal Light Plant ("MLP") Manager Bob Gross , and JP, also a member of the Broadband Ad Hoc Group, discussed the Broadband Ad Hoc Group's draft Post Construction New Connection Policy. The purpose of the policy is to describe, in general terms, how the Town will make it possible for new premises to connect to the town-owned broadband network. Because it is impossible to cover all variables, the proposed policy states in part that "Any new internet connection will be considered by the Becket MLP and the Select Board upon request. It is in the Town's best-interest to facilitate connecting new premises to its broadband network." Bob Gross further explained that this economic decision, at the discretion of the MLP Manager with the consent of the Select Board (in its role as the board of the MLP), will be based on whether Becket has the funding in hand or whether the Town wants to request additional funding at Town meeting. Bob Gross will present another draft at a future meeting.

JP moved to approve the Municipal Light Plant Manager's proposal to transfer $195,534, which represents 75% of the Fiscal Year 2023 Broadband Debt Service that was paid in August 2023, from the Municipal Light Plant account to the Town General Fund to offset such Debt Service. CS 2nd: Roll call vote: BE – yes, CS – yes, and JP - yes

At a future meeting, the agenda will list the Becket MLP Manager's proposal for the Select Board to approve for the Becket MLP Manager to transfer $25,000 from the MLP Account to the Town General fund to offset costs associated with renovation of the Pavilion next to Town Hall.

Bob Gross indicated that he is not certain whether the Town Treasurer has deposited all WiredWest funds into town accounts. KW explained that the ARPA money needed to be directly funded into a town account, before it could be moved into the MLP account. Bob reported that the Town Treasurer suggested that Bob Gross meet with the Town Accountant and her on October 19th to address the transfer and provide account numbers.

JP brought up that the MLP fund will pay for a small portion of the lightning protection project. After receiving the invoice, KW will submit it to MLP Manager Bob Gross for payment.

Bob Gross stated that the only other thing from a financial standpoint is the intent to pay 75 percent of the Broadband debt service paid by the town in the previous fiscal years once we have a better handle on the finances. JP clarified that we need to determine a plan as to the appropriate amount of reserves to be set aside for equipment replacement so that we can keep the broadband system operating at the optimal level. JP stated that we need to observe our actual experiences as to equipment depreciation and obsolescence for a while before we will arrive at the appropriate limits on the funding of such reserves. KW suggested that the Broadband Ad Hoc Group ask other town broadband entities what amounts they are setting aside for their reserves as part of that analysis and planning. JP stated that the town has some models, and Bob Gross stated that he will also contact the Town of Otis to facilitate a decision to ensure Becket has sufficient reserves.

Becket Woods Construction is complete and Whip City Fiber is hooking up premises. The head of the Becket Woods Homeowner Association conveyed that everyone is very happy. Bob Gross stated that

they are in the process of connecting all who submitted required payments and it is anticipated this will be done by the end of the month.

Discussion ensued regarding removing fiber spools from the parking lot opposite the North Becket Fire Station (Rte. 8 @ Lyman Rd). KW will arrange for the Highway Department to provide a dumpster. Bob Gross indicated that the MLP will pay for the dumpster. JP and Bob Gross will take apart and place the reels in a dumpster.

Bob Gross indicated that the town has a budget that Jim Drawe, WiredWest, has developed that Bob thinks is overly optimistic and there are a number of expenses that are wrong. Bob is in the process of fine-tuning it and hopes to have it at one of the next few Select Board meetings.

Bob reported that KW had mentioned the auditors are concerned about the financial documentation for the MLP. KW agreed the auditors want a list and documentation of moneys transferred into and out of the MLP accounts. Bob suggested that he will create a spreadsheet for every year. The first couple of years will consist mostly of sources of funding for construction costs of the project. Commencing with Fiscal Year 2023, there will be one excel spreadsheet of construction costs and a separate one of the MLP as an operating entity. JP added that excess revenue funds the MLP receives from WiredWest for a fiscal year are distributed after the fiscal year has ended and consequently, the MLP cannot commit the amount it can transfer to the town for debt service until the beginning of the following fiscal year. Bob stated that as a result, every year at the ATM there will be a warrant with an article to authorize the Town to pay the full debt service associated with the Broadband network construction. JP explained that while it looks like taxpayers are paying 100 percent of the Broadband debt service, in reality the expectation is that taxpayers are only paying 25 percent pf that debt service, once the MLP transfers funds to the Town.

10. **Approval of the 9/20/2023 Minutes**
    JP moved to approve the 9/20/2023 minutes, CS 2nd: Roll call vote: BE – yes; CS – yes, and JP – yes.

11. **Select Board to vote on Fire Chief's recommendations for fire safety inspection fees**
    JP moved to accept the Fire Chief's recommendation to increase the Fire Department Inspection and permit fees (listed below) to $40.00 effective 11/1/2023 and to retroactively establish a $40.00 inspection fee for Energy Storage System effective 9/1/2023. CS 2nd: Roll call vote: BE – yes; CS – yes, and JP – yes.

    Smoke & CO, Propane Tank, Oil Tank Removal, Blasting permits,
    New Home, Furnace, Liquor License (ANSUL – fire suppression system)

    In order for KW to survey several Berkshire County towns, the Select Board tabled voting on creating a fee for Fire Department inspection of Camps/Jacob's Pillow. BE will check with the Stockbridge Fire Chief. KW will ask Lenox, Otis, Williamstown, North Adams, Pittsfield and Hinsdale.

12. **Select Board will discuss the Draft 2015 Street Acceptance Policy (comments/questions/suggested changes)**
    At approximately 8:30pm, due to the hour, the SB agreed to BE's suggestion to table the above captioned agenda item for discussion at a near future meeting.

13. **Select Board to acknowledge resignations:**
    - Victoria Bleier - Zoning Board of Appeals effective 10/18/2023
    - Morgan McDonough, part-time Ambulance Department employee - last day of work is on 10/23/2023
    - Bob Gross, Energy Committee effective 9/20/2023
    - Jeff Piemont, WiredWest Alternate Delegate effective 9/20/2023
    - Chris Isner, Highway Department Laborer, effective 10/20/2023

    The SB acknowledged the above captioned resignations, and expressed appreciation to all for their service to the Town.

14. **SB to review and vote to approval a Tax Insert to promote sign-up of the Town of Becket Text Alert System**

    JP moved to approve the Tax Insert to promote sign-up of the Town of Becket Text Alert System, CS 2nd: Roll Call vote: BE – yes; CS – yes, and JP - Yes

15. **Select Board to review Departmental Reports**

    Under the 4th agenda item, the SB and Co-Ambulance Director Max Koivisto discussed the Ambulance Department's September 2023 report and Ambulance Call Totals 2020-2023.

16. **Town Administrator's Report**

    KW provided the following update:
    - KW has started the discussion with Berkshire Regional Planning Commission about another Community Development Block Grant (CDBG). They are waiting for the Governor to release the next round in December. The SB supports pursuing another CDBG when the state provides the information/application.
    - KW will apply for a USDA grant to fund a police cruiser.
    - KW received a $9,930 quote from Lee Audio Security for a Town Hall security system that includes initial set up of two monitors (one in the Town Administrator's Office and one in the Police Dept.), two cameras in each hallway, a camera in the community room, and another camera in the back part of the hallway downstairs. The Town would conduct the monitoring. The contractor would set up the recording system which would be kept at Town Hall and maintained by the Town of Becket. KW stated it is her understanding the monitors contain the recording device. Discussion ensued regarding including monitors as opposed to recording only. At tomorrow's Berkshire County Town Managers Meeting, KW will inquire how other towns handle security systems. The SB will continue this discussion at a future meeting.
    - KW asked if the SB would consider covering the health insurance premium for an employee (name not mentioned to protect privacy) on medical leave. BE moved that the Town of Becket will cover the employee's portion of the health insurance premium in the amount of $832.50 for the next thirteen weeks, contingent upon Town Counsel's approval. JP 2nd: Roll call vote: BE – yes; CS – yes, and JP - Yes

17. **Select Board's Comments and Announcements**

    BE brought up that the SB did not vote to approve a change of manager or transfer of the Becket General Store's liquor license. KW stated that Mo Vandesteene stopped by Town Hall today and indicated that he is in the process of purchasing the business. The SB agreed for KW to discuss this

matter with Town Counsel in case this establishment were to be in violation of the state's liquor laws.

BE stated that Sandisfield's recent fire truck accident has touched upon questions he has re: Becket's Fire Department that he thinks warrants discussion at a meeting in the near future.

18. Any other business to come before the Board

KW advised that she will not be able to attend the 10/18 meeting.

19. Correspondence/announcements:

2023-10-04 e-mail from Karen Karlberg to the Town Administrator regarding Town of Becket ADA Compliancy-Open Space

The SB reviewed the above communication. KW took care of Ms. Karlberg's request for a copy of the town's ADA Policy.

20. Select Board to review and sign payable warrants

The SB reviewed and signed payable warrants.

21. Select Board to vote to enter into Executive Session in accordance with MGL Chapter 30A, Section 21 (a): 3 To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares; as it relates to the town's broadband contracts

After BE read the above captioned, declared an open meeting may have a detrimental effect on the town's bargaining position of the public body, BE made a motion to enter into executive session in accordance with MGL Chapter 30A, Section 21 (a): 3 To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares; as it relates to the town's broadband contracts, and BE indicated that the SB would not return to open session. JP 2nd: Roll Call vote: BE – yes; CS – yes, and JP - Yes

At 9:40pm, the SB went into Executive Session.

Respectfully submitted,
Beverly Gilbert, *Administrative Assistant*

Signed by:

William H. Elovirta / *October 18, 2023*
William H. Elovirta, *Chairperson* Date Approved

Meeting documents:

- Agenda
- Town Administrator's Report
- Lee Audio Quote
- 10/4/2023 Meeting Minutes
- Departmental reports – as listed
- Bob Gross Appointment Application

- Correspondence as listed
- Appointment applications: Chuck Garman (Bylaw Review Committee), Jeremy Dunn (WiredWest Alternate Member), Julie Craumer (Energy Committee)
- Handout – Proposed Fire Department Fees
- 2023.09.20 e-mail from Laurel Lenski to Beverly Gilbert regarding Moving Meditation Series
- 2023.10.04 Memo from KP Law to Town Administrator re: Transfer of Property for Open Space and Recreation Purposes
- 2023.09.13 e-mail from Patricia Mullins of Berkshire Regional Planning Commission to Town Administrator re: Cooper 157 Washington Street Line
- Resignation communications: Morgan McDonough e-mail dated 9/11/2023 to the Becket Ambulance director, Bob Gross e-mail dated 9/20/2023 to Select Board c/o Town Administrator, Jeff Piemont letter dated 2023.09.20 to Select Board and Town Administrator, and Chris Isner letter dated 2023.10.04 to the Highway Superintendent and Town Administrator
- SB Letters of appreciation: Morgan McDonough, Robert Gross, Jeff Piemont
- Proposed Tax Insert regarding TextMyGov
- Draft Becket Broadband Post Construction New Connection Policy
- MLP Manager letter to Select Board dated 10/3/2023