TOWN OF LEBANON
SPECIAL TOWN MEETING – MAY 13, 2019
MINUTES

The Special Town meeting of the electors and those qualified to vote at the town meetings of the Town of Lebanon was held on Monday, May 13, 2019 at Lyman Memorial High School 917 Exeter Road. Audience 92.

First Selectman Betsy Petrie called the meeting to order at 7:33 PM.

The meeting was opened with the Pledge of Allegiance.

First Selectman Betsy Petrie then called for nominations for moderator.

Moved by Liz Charron, seconded by Kevin Cwikla to appoint Diane Malozzi as Moderator.

Vote called to nominate Diane Malozzi as Moderator. Motion passed

Moderator Malozzi reviewed Town Meeting rules and protocol.

Moved by Betsy Petrie, seconded by Phil Johnson, to wave the reading of the call of the meeting. Vote called – Motion passed.

Moved by Kevin Cwikla, second by Betsy Petrie to bring item 1 to the floor. “To appropriate an additional $35,000 from fund balance for the purpose of resolving ownership of the remainder of the unowned Lebanon Green.”

First Selectman Betsy Petrie spoke to the question as follows:

Town Meeting approved $250,000.00 in December 2016 for the Board of Selectmen to quiet title the three municipal parcels – the Library, Town Hall and Department of Public Works facility. On March 25, 2019 the Town successfully concluded the superior court lawsuit filed in January 2018. The Library building project that town meeting and the May 2015 referendum approved can now move forward. The Library Building Committee has been re-engaged.

Other entities, specifically the State of Connecticut, have taken an interest not only our action of the three parcels, but also the Green. Presently there are two additional lawsuits that have been filed. The Lebanon Historical Society seeking quiet title to the remaining Green, and the First Congregational Church filed an ownership claim of certain property in the Church’s name. That was filed on May 2, 2019. The Town is acting as a defendant in both of these cases. First action that you voted to give authorization to the Town, the Town acted as the Plaintiff. We had to come to town meeting to ask for that permission.
That is why you authorized that money. It would be in the best interest of the Town to be the plaintiff and not the defendant. With approval from town meeting this evening, the authorization of an additional $35,000.00 would allow the Town to act as the plaintiff the next action.

First Selectman Petrie asked for Selectman Glen Coutu and Selectman John Bendoraitis and Selectman Glen Coutu to speak in more detail about the additional parts of this process.

Selectman Coutu spoke to the question as follows:

During the Town’s first quiet title action, the Town has worked with the Church; in particular, the Church’s septic and drainage needs by preparing and negotiating easements. We are asking for perpetuity. We have spent a great amount of time with our counsel and the Church. One of the biggest concerns is to ensure that moving forward, the Church should they need a new septic system would be able get that. As part of this process, the Town escrowed $35,000.00 if the Church’s present leach field needs to be relocated to what is now on Town property. We are here tonight to get your permission to move forward for the rest of the known portion of the Green so it can remain as it is today.

First Selectman Petrie stated that the escrowed amount was $30,000.00, not $35,000 as stated by Selectman Coutu.

Selectman Bendoraitis: Through the course of surveying work and these legal actions, it’s been determined there is no ownership recorded for parcels; essentially front yards or what we call abutters. Selectmen feel it is appropriate during the course of this action to get title to those parcels resolved as well. The parcels are part of the Historic Green, unlike the main Green, they have not been used continuously by the public. They have been continuously used by the abutters. It would be difficult for the Town to argue if the Town should take the possession of those. It is the belief of the Board of Selectmen that over the course of the action, we would be seeking to have the court award those easements to the property owners.

Moderator Malozzi opened the floor to questions/comments:

Brock Littlefield, Exeter Road: How does Historical Society fit into the Church suit?

Tim Fields, Chairman First Congregational Church: The church has quiet title action for two acres which overlaps some of the Town’s proposal. That would be a point of contention if the Town should continue to quiet title to the full extent around the church property. The parcel we are looking at would extend about 150 feet of the northern boundary of the Library parcel.

First Selectman Petrie: This is about 1.6 acres. Church’s action started May 2, 2019. We are working together. The church will have a need to relocate its septic system in the future. They can only locate it on property they own.

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Rick Kane, President Lebanon Historical Society (LHS): In December 2018 the Town filed for quiet title on three properties. This is what the Town had authority to do and the only action the Town took. Discussions with the Historical Society and other organizations, resulted in the Historical Society’s position that the rest of the Green and including the Church’s element, should also be kept in perpetuity. It should have a deed to its own property. The Lebanon Historical Society filed a law suit in January 2019 and it is currently pending.

Alicia Watson, Randall Road: Is the Historical Society specific to the Green and other properties surrounding the Green?

Rick Kane, LHS: The Historical Society filed for quiet title by behalf of the Town. For the Green area, Historical Society filed for quiet title for the abutters and filed for quiet title, prior to the Church filing on their own, for the church to acquire a deed and quiet title for the Church.

Allyn Miller: Did this Historical Society file to own this? And why do we need more money?

Rick Kane, LHS: The abutters would own their own, and the Green would go to the town. There are issues with the law suits pending, that is why we are here this evening.

Jack Griffin, Trumbull Highway: In the warning of the meeting, why does it say “unowned” Green and was it resolved that this is no longer a Common owned by the Town?

First Selectman Petrie: Historical research shows there is no title to the Common. What we are trying to acquire is title.

Sheri Majnich for Ralph & Mary Adams, West Town Street: What does this mean to my parents? Will they lose their property? Asked why they were never contacted.

First Selectman Petrie: The Adams live on the northern part of the Green on West Town Street. This does not impact their property. It does permit the Town to own West Town Street which we don’t do from the parcel from the intersection Route 207 north. Notification from the court system may not have been received because the first piece of property proceeds about at the War Office to the last house before Public Works facility.

Tim Fields: The $35,000.00 cost as costs seems very low. Is there outside legal support?

First Selectman Petrie: In December 2016 we received $250,000.00 from Town Meeting. We hired services for survey work. A portion was paid by town and a portion was not. There is about $15,000.00 of that $250,000.00 as of April 29th. This estimate is based on what Counsel has provided. The next phase estimates about $35,000.00 additional, plus the $15,000.00 will be added to funding to complete this project. There is no other funding from any other sources.
Ashely Littlefield, Exeter Road: Why now own the entire Green, and what is the difference between the Historical Society owning it and not the Town?

First Selectman Petrie: The Town did not do this initially because three years ago we weren’t sure we would get permission to do the three parcels. It is our belief it moved forward because of the pending library project.

Attorney Catherine Marrion, Waller, Smith & Palmer: When the Selectmen came to town meeting to obtain the three parcels, there was discussion why it was being done. No one had raised any issues about the Green in the past. The town should leave things alone. Since the Historical Society filing, there have been o. Two actions to dismiss which have slowed down the process significantly. Counsel has spoken to the Selectmen and other parties, that it is the Town’s place to quiet title to determine ownership of the remaining parcels of the Green. The town should take the lead and act as plaintiff and move this along. Move the motions along with the pending Historical Society action and get this resolved as soon as possible.

James Jahoda, Member Planning & Zoning Commission (PZC): Stated he finds it interesting the decision was made by the Town. In February, PZC wrote a letter to both the Selectmen and the Historical Society, sitting issues that concern the Green and future possible uses. The intent of the letter was for PZC to be included. What is the reason PZC has not been included in discussions?

First Selectmen Petrie: Speaking to the letter, in early February of this year, the Board of Selectmen met with PZC to bring them current on the project at their request. The letter PZC wrote was actually addressed the Historical Society and not to the Town. The Board of Selectmen did not respond as it was not addressed to the Town. It is our opinion, should the Historical Society choose to respond, that would be their decision. The Board left that meeting feeling that things were okay and were surprised with the letter.

LIIS Rick Kane: We are unable to respond to the letter as we are dealing with the two motions to dismiss. If the results are dismissed, there would be no reason to respond.

Dennis Cronin, Babcock Hill Road: What body will manage the Green as far as permission to do things on the Green? How the Green would be developed? Concerned that one entity would control the Green. There needs to be checks and balances.

First Selectman Petrie: We have been meeting regularly with the Historical Society on how to manage. How do we keep it like it is today? How do we prohibit things? We do believe there should be some sort of conservation easements on the properties. We would ensure that there are tree planting relative to Connecticut. All these parcels have protection easements and those are managed by the Historical Society. We believe the rest of the Green should be managed by an entity of the Town, and not from an entity of the State or the State of Connecticut. During this process, we created a list of things that can and cannot happen. The Board of Selectmen would be the entity to work with the Historical Society to provide checks and balances.
Alicia Watson, Rancall Road: Initial suit filed by the Historical Society effected all those abutting Town Green. What is happening to all of these abutting properties?

Rick Kane, LHS: Status of Historical Society includes restrictions on frontage properties. Motion to dismiss our suit was filed by an abutter. It only identifies the defendants and each one received a summons. It's only from the War Office south to Public Works - about 15 residences.

Nancy Gentes, West Town Street: Our property is directly impacted by this. As far as the Historical Society vs. Town, the Historical Society law suit involves additional restrictions. We are already living in a District with restrictions. As a property owner, we are in favor of this. We are the people who submitted the motion to dismiss. Support the Town’s action.

Dawn Drum, Tobacco Street: If the town is going to own the entire Green and keep in in perpetuity, what is to say the town will not develop the rest of the Green? What will happen to the two parcels at the far end of the Green?

First Selectman Petrie: This is why we are attempting to put this into place so that additional building cannot happen in the future. At the far end of the northern Green, 915 Beaumont Highway and property adjacent on Trumbull Highway, those will be just like the abutters on West Town Street.

Jack Griffin, Trumbull Highway: There is no title to these properties because it is a Common. What the Selectmen are proposing, the town already does. We maintain, mow and plant. In favor of treating this as Common property and to keep it just the way it is. Any proposed changes like a septic should come to town meeting just like it has been. There is no need for the Town to own it and most importantly for the Historical Society to own. Believes the checks and balances in place should remain as they are.

Tim Slate, Trumbull Highway: A great deal of money can be saved by the Church and Town if they work together, rather than dragging it out through the court system. Feels heirs, assign, residents, church and town residents as a whole would be wise to take this action tonight so the Town can take quiet title on the Green.

Sherrie Swenson: The town citizens should know what the Town and Historical Society have in mind for the Green. One concern is the ability of citizens and organizations to assemble on the Green. Concerned if town takes more ownership the citizens would have less access to it.

First Selectman Petrie: The list compiled is subject to litigations. While this action has gone on, our office has been extremely apprehensive to approve any community events on the Green. Events the past three years such as Summer Fest, summer concerts and picnics have been continuing throughout this legal process. Anything new for example, such as a car show, the answer was no. We did not want to go into litigation having any new events on the Green if we don’t own it.
Attorney Ed O'Connell, Town Counsel, Waller Smith & Palmer: One thing is to have Town's fate in its own hands – controlled by Board of Selectmen and Town Meeting and not the hands of the Historical Society or the Church. Town should initiate this law suit and have control and not be defending a law suit.

Tim Fields: Would a public hearing be presented with the deed restrictions so Lebanon residents can weigh in on what restrictions would be imposed? It is important everyone gets a chance to voice an opinion.

First Selectman Petrie: In response to Jack Griffin's comment, Town Meeting does not have authority to permit a septic system to be installed on or around Common. The court decree supersedes certain rules in the State. Town meeting cannot supersede these rules.

Marion Russo, Beaumont Highway: Has a parcel of property on West Town Street. If the Town votes tonight and the town is the owner, would I remain the owner? If Historical Society owns the property, would there be more restrictions?

First Selectman Petrie: The Town has no intention to own these properties. Zoning requires you to comply with certain restrictions. Would not be the intention of the Town of Lebanon to own these. The Historical Society does not want to own these.

Rick Kane, LHS: There is no intent for the Historical Society to own any of this land. In January we filed for quiet title. There were additional restrictions similar to that would be owned by Historical Society on the Green.

Wes Wentworth, West Town Street: Supports this action by the Selectmen.

Keith Wentworth, Exeter Road: The Town will own the Green and the Historical Society would be the curator of the rights. Any development rights or easements put on the Green would be similar to farmland protection that exist in Lebanon. In favor of this action this evening. It is good to have local control. There are people that are not residents of this town who would like to make these decisions. Would not like to have this controlled by people not living in Lebanon. This makes the most sense for the Town for the Green to remain as it is. Deed restrictions are controlled by our own people as it continues to be Lebanon's Green. There may be other interested parties who may want it to become a state park. We have to move forward for the rest of the Green to remain as it is today.

Betsy: For the record, I did not say anything to Keith Wentworth regarding this item presented this evening.

Ron Bender, Bender Road: What are outside influences? Concerned that State of Connecticut is included in comments.

First Selectman Petrie: Board of Selectmen are skeptical about new things. We were approached during the process and asked if we would pursue to own the entire Green. We did not think the residents would support that. Along the way, other people have

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First Selectman Petrie: Board of Selectmen are skeptical about new things. We were approached during the process and asked if we would pursue to own the entire Green. We did not think the residents would support that. Along the way, other people have expressed an interest. The Attorney General weighed in, easement holders and other entities in the Town that receive donations which we don't want to jeopardize. The Historical Society and Board of Selectmen hashed things out so it would have Lebanon flavor and not someone else’s flavor. We feel these are the right things for the Town.

There are some things we are unable to speak to. The Town would own the Green and the Historical Society would be easement holder and work with the church. What you see on the Green would remain the same.

Moved by Keith LaPorte, seconded by Kevin Cwikla to close discussion.

Moderator Malozzi called the question to close discussion. Vote called – Motion passed.

Moderator Malozzi called the question “To appropriate an additional $35,000 from fund balance for the purpose of resolving ownership of the remainder of the unowned Lebanon Green.”

Vote called – Motion passed.

Motion by Betsy Petrie, second by Kevin Cwikla to adjourn meeting at 8:33 PM. Vote called: Motion passed. (Exhibits follow these minutes.)

Respectfully submitted,

Mary Ellen Wieczorek, CCTC
Town Clerk