

**Board of Selectmen – Board of Finance – Library Building Committee**

**Special Meeting**

**March 29, 2021 — 7:00 PM**

**TELECONFERENCE**

**MINUTES**

**Members Present:** First Selectman Kevin Cwikla, Selectmen Kathleen Smith, Glen Coutu, Robin Chesmer, and Betsy Petrie-McComber (Board of Selectmen); Liz Charron, Meghan Bruce, Michael Ninteanu, Greg Lafontaine, Tony Tyler, Dennis Cronin (Board of Finance); Jim Russo, Catherine McCall, Maggie McCaw, Vin Shea, Berkeley Nowosad, Lisa Matson, Linda Wallace, Chris Darrow, Julie Culp (Library Building Committee)

**Others Present:** Bernard Dennler (Administrative Assistant/Teleconference Host); Attorney Catherine Marrion (Waller, Smith, and Palmer); Matt Earls (Library Director); residents and other listeners

**1.0 Call to Order**

K. Cwikla called the meeting to order at 7:04 PM.

**2.0 Discuss future of Library Project**

K. Cwikla read a statement stating the Town has been defending two lawsuits which has required many discussions to take place in Executive Session.

Attorney Catherine Marrion provided a summary of past and ongoing legal and regulatory issues. For several years, the Library project was delayed by issues with ownership of the library parcel and the Lebanon Green. In 2019, court granted Town ownership of all but two acres immediately west of the Library where the First Congregational Church is located. There are regulatory hurdles that remain affecting the Library building project.

C. Marrion said there are two ongoing lawsuits regarding the Green in which the Town is a defendant. The Lebanon Historical Society is a plaintiff in one and the First Congregational Church is a plaintiff in the other. The Attorney General is a required defendant in both cases. LHS has appealed the dismissal of its case. The lower court stayed the two lawsuits pending outcome of LHS appeal. The resolution of litigation is months or years away. The Town and Church have attempted settlement on the driveway and north, but the AG's office will not agree to any partial settlement. The Green is listed on National Register of Historic Preservation. The State Historic Preservation Office will determine whether the library expansion would have an adverse effect on the Green. SHPO recently informed the Town that all but one proposed parking plan would be considered to have an adverse impact. Following meetings with DOT, SHPO relented but stated it would need a Section 106 Plan under which efforts would be made to minimize the adverse effect on the historic property. SHPO would identify appropriate parties to participate in the Section 106 Plan. C. Marrion said this would be a very broad category, including potentially local, state and federal conservation organizations. Public hearings would take place and parties would need to enter into a mutually acceptable action plan. While it could be expedited, it is expected it would

take more than a year to resolve. She said it is not clear what mitigation actions could be taken in the case of the Green and Library Project that could be incorporated into a Section 106 Plan. SHPO will not sign off on the parking plan until the process is concluded.

C. Marrion provided information on regulatory issues with the Library and Church septic systems on the Green. The Uncas Health District must approve all septic system work. This has created issues for both the Library and Church. Uncas will not approve septic on the unowned 2-acres related to the Church. To date, there has not been an acceptable solution to Uncas regarding the Church. The Church septic is partially in the construction area for the library, so the Town has been looking to move the Church septic. She said leaving the Church septic in its current place is complicated and undesirable but may not be insurmountable. Uncas will not approve library septic until a parking plan is approved by SHPO. The Selectmen considered relocating the Church and Library Leaching fields as a shared system on the Town Hall parcel, passing under Route 207. DOT agreed to review preliminary plans, although initially DOT considered the proposal to be for a "private utility" and not a public utility such as a town sewer system. However, she said the prospects of success for the shared system plan do not look promising.

Regarding the state library grant, C. Marrion said the town has been unable to keep up with the schedule mandated by the state library due to the ongoing lawsuits and regulatory hurdles. There have been several extensions already. Recently, the state library's grants manager informed C. Marrion that no further extensions can be granted, and that efforts towards an extension would not be effective as a result of other restrictions, including by the State Bond Commission. The state librarian expressed to her that they still want to see the project through to fruition. They advised that the Town forfeit the grant and reapply which would reset the clock. If the town forfeits the grant, there would be no prejudice in reapplying. If the town does not forfeit the grant and the state has to rescind the grant, the Town would be treated with prejudice with reapplying in the future. The Town does not currently have a timetable to offer for either another extension if it was possible or for reapplication. She said due to the other impediments, it is not clear when a timetable could even be given. She said she has advised the Selectmen not to sign a contract for the construction of the library under the current circumstances.

B. Nowosad asked: If SHPO wasn't involved could the septic remain at its current site? C. Marrion said that even if SHPO was not involved but that other organizations such as the LHS or CT Trust for Historic Preservation could still bring an action against the Town preventing the septic work from being done. J. Russo said there are soils on the library parcel that are suitable for a septic.

L. Charron asked: How often does state library look at grant applications? What is the timeline to hear if a new grant would be given? She said if there is no grant, then the project needs to go back to referendum. She said the project was presented to the Town as a 5.8 million project with one million from the Hugh Trumbull Adams Trust and one million from the State Library Grant. J. Russo asked if the original referendum was phrased in a way that obligates the project to return to referendum without the grant funding. L. Charron said by law the Library Building Committee is authorized to borrow up to the \$5.8 million. She said the legally the LBC can move forward but morally it should return to referendum because of the way it was presented to the voters, in her

opinion. J. Russo said that the referendum question never guaranteed the funding from the Trust or Library. K. Cwikla read from the original resolution for clarity. The resolution states the Town “anticipates” the one million dollars from the Trust and the State Library Grant.

Library Director Matt Earls provided an update on the grant application process. A notice of intent needs to be done by June, application submitted in September and reviewed by State Library Board in November. He said he has had conversations with members of the Board and said he believes the entire Board is in favor of this project. He believes the Town will know in January 2022 if they would receive a new grant.

M. Bruce thanked people involved in the Library Building Committee but said she had concerns going forward. She said the project may materially change from what has been approved going forward. She said there have already been changes since the project was originally presented to voters. She said personally it feels like trying to push a round peg into a square hole. She said if this project is still a priority, the Town should examine other locations given that it could be several years before there is a shovel in the ground. She said there is nothing in writing that guarantees future funding from the library. She said the whole town needs to be aware of dynamics and that there needs to be another referendum.

M. Nintean said the project is now very different than what was originally sold to the Town. He said he agrees with L. Charron and M. Bruce that it needs to return to the voters.

D. Cronin said the Town needs to stay the course on this project and it would be short-sighted to walk away now.

B. Nowosad said she has to rebuff other comments. The project is not significantly changed overall minus some changes to the parking. She said the project is the same as what was voted for by the Town. B. Nowosad said the resolution passed at referendum stated that the funds were only anticipated, and it was written as such because there was no guarantee of the funds. She said the turnout of the referendum should speak louder than the voices of the board members at this meeting. She also said the Town has sunk a large amount of costs into the project already and it is not good stewardship of Town funds to walk away now.

J. Russo said about \$800,000 has already been spent in relation to this project. He said it would be a waste to find a new location and start from scratch. The current project is a 7,000 square foot renovation and a 7,000 square foot expansion. He said an entirely new 14,000 square foot building would be more expensive.

B. Petrie said B. Nowosad is correct that the project is essentially the same as presented. However, she said that if a new location was found and a different path was chosen, then the bonding document would no longer be valid due to the specific address of the project. There are many hurdles in this project and she cannot say if there are more or less hurdles in front of or behind us. She said the primary issue is the land where the current library is built.

G. Lafontaine said it would be prudent to table the project until some issues can be resolved. He said if there is not state grant funding then it does need to return to the voters as it does not reflect what the project would cost the Town. L. Charron agreed with G. Lafontaine. She said the loss of funding is a significant change to what was presented to the townspeople. She stated she voted for the project, but the town should not sign a contract with a construction company if there is no guarantee of funding and major regulatory hurdles remain. She said that would be bad stewardship.

M. Bruce asked about inflation of design costs. J. Russo said there is probably an average 7 percent increase per year, but the scope of work has changed as the parking lot is significantly smaller. M. Bruce said inflation means you cannot build the same project presented 5 years ago. She said at minimum there needs to be a public hearing on the subject.

V. Shea said tabling the project now means throwing away the dollars spent to date and absorbing the costs related to the Green lawsuits for nothing. He said the LBC has been living off the money from the Adams Trust funds. If the project dies, he is concerned the Town will now be obligated to repay the spent funds to the Trust which could cost the taxpayers up to a million dollars.

J. Culp said the moral thing to do is honor the will of the voters when they cast a legally binding referendum. She also said we should honor Hugh Trumbull Adams who wanted to preserve the Town and would want the library construction. She asked how long it will be before the Church issue is resolved? C. Marrion said work has been paused until the LHS case is resolved and that likely will not happen this year.

K. Cwikla said at this point the best thing to do is forfeit the grant sooner than later which could at least put the Town in a position to reapply without prejudice. C. Marrion agreed but noted with the new application would need to include a timeline.

B. Nowosad said don't do public hearings for fun. We do public hearings as part of a legal process so there is no reason to proceed to public hearing. She said the best thing to do now would be to offer a timeline and reapply and then ask for further extensions of that grant if the lawsuits are not resolved.

J. Russo said it would not take much effort to reapply. He added based on the timeline with a new application, groundbreaking would not need to occur until July 2023 as it would be 18 months from the award date of January 2022, not 18 months from the application date. He also said that the general contractor bids were coming in under what they anticipated. He said the current library has hazardous materials that need to be removed for the safety of staff.

J. Culp agreed with J. Russo and asked if the referendum would be nullified if additional funds were donated. C. Marrion said she does not see why it would nullify the referendum if additional donated funds were received from some entity to offset the loss of the library grant.

K. Cwikla said he would support a public hearing to let members of the public comment on this topic. M. Bruce asked when this could be expected. J. Russo said this meeting was the first he heard of possible public hearings but said one could be scheduled sometime within the next 60 days. He said he wants a better feel of what the situation and legalities are before a public hearing. He also said he does not believe there is a need for public hearing.

D. Cronin asked if the delays in the appellate court could have been expedited if it was not for COVID. C. Marrion said the Town would not have been able to jump ahead of others so there would be no expediting it.

B. Nowosad and J. Culp both spoke in opposition to holding a public hearing as there is nothing new to act on. B. Nowosad also said it does not belong on the annual town meeting agenda.

B. Petrie and J. Culp discussed the procedure on how the grant would be forfeited. They agreed the Board of Selectmen voted to accept the grant and the Board of Selectmen should be the one to vote to forfeit it to avoid the state library treating a future application with prejudice. J. Russo said there is a handbook that explains the process on how to apply for and forfeit a grant.

M. Bruce stated there needs to be a public forum for residents to ask questions on this subject or propose ideas.

L. Matson noted all meetings of the LBC are open to the public on Zoom and residents can ask questions there.

K. Cwikla stated that he felt they covered everything they could in the current format and called for the meeting be adjourned if there were no further questions.

### **3.0 Adjourn**

The joint meeting adjourned at 8:31 PM.

Respectfully submitted,  
Bernard W. Dennler III  
Administrative Assistant

*Please see the minutes of future meetings for any corrections hereto.*