

# BOARD OF SELECTMEN MEETING MINUTES

**September 6, 2022**

Chair Brett Simas; Select member Stephen A. Matellian; Select member Maureen Dwinnell; Town Manager Joseph Laydon; Executive Assistant Sandra Hakala.

## 1 **CALL MEETING TO ORDER**

2 **Maureen Dwinnell MOVED** to open the regular meeting at 7:00 PM.

3 **Second: Select member Matellian, Unanimous, Chair Simas.**

## 5 **DEPARTMENT/BOARD UPDATES AND REQUESTS**

### 6 **Department of Public Works – Execution of Crockett Road Agreement**

7 The agreement between William and Lauren Montenegro of 105 Crockett Road, Upton and the  
8 Town of Upton was reviewed by the Board. The Montenegro's seek approval to cross Crockett  
9 Road to install a septic system. The Board had previously discussed this on April 19, 2022;  
10 town meeting approval to grant an easement for crossing Crocket Road will be required.

12 **Steve Matellian MOVED** that the Board vote to execute the agreement between William and  
13 Lauren Montenegro of 105 Crockett Road, Upton and the Town of Upton to cross Crockett Road  
14 to allow for the installation of a Title 5 compliant "Septic System" and the granting of an  
15 easement to cross Crockett Road from the Town, pending Town Meeting approval.

16 **Second: Select member Dwinnell, Unanimous, Chair Simas.**

### 18 **Special Municipal Employee Designation – Upton Land Stewardship Committee**

19 Massachusetts General Laws Section 20(a) limits employees of a municipality to also hold a  
20 public office without being designated as a Special Municipal Employee. Since the designation  
21 is for a position and not a person, it is recommended that the Board of Selectmen designate the  
22 Upton Land Stewardship Committee as a special municipal employee. This designation allows  
23 Mary Overholt, who was recently hired as the Town's Conservation Administrator, to continue  
24 to serve on the Land Stewardship Committee.

26 **Maureen Dwinnell MOVED** that the Board vote to authorize the Town Manager to sign the  
27 Disclosure by Municipal Employee of Financial Interest in a Municipal Contract as required by G.  
28 L. c. 268A, § 20(b) by designating members of the Upton Land Stewardship Committee as  
29 Special Municipal Employees and to allow Mary Overholt, an existing employee, to take a  
30 second position with the Town on the Upton Land Stewardship Committee.

31 **Second: Select member Matellian, Unanimous, Chair Simas.**

### 33 **HR Department - Fire Department - Wellness Grant Application**

34 The MIIA Wellness Grant Application for fitness equipment proposed by the Fire Department  
35 and coordinated by the HR Director was reviewed by the Board.

36

37 **Steve Matellian MOVED** that the Board vote to authorize the Town Manager to submit the  
38 MIIA Wellness grant application for fitness equipment as proposed by the Fire Department.  
39 **Second: Select member Dwinnell, Unanimous, Chair Simas.**

40

41 **Town Manager – Lindquist-Malone Land – Set Hearing Date for APRDPW –**

42 At the Board's August 16th meeting, the Board of Selectmen voted to approve the reduction of  
43 the public notice period from 120 days to 60 days. The Department of Agriculture followed up  
44 with staff that a date for a public hearing must also be set. Staff is working to get guidance on  
45 whether the hearing date needs to be set by the Board of Selectmen.

46

47 **PUBLIC INPUT/BOARD MEMBERS' UPDATES**

48 Christine Scott asked the Board to consider a hidden driveway sign near her residence.

49

50 **HEARINGS**

51 Three licenses were submitted by Agucate Grill LLC, dba Rose Garden Restaurant and Lounge at  
52 16 Milford Street, Upton: All-Alcohol Beverages License §12 On-Premises Transfer from KCLC,  
53 Inc. dba Rose Garden Restaurant & Lounge; Common Victualler' s License to Cook, Prepare, and  
54 Serve Food; and the Outdoor Entertainment License.

55

56 **7:30 PM – Public Hearing – Transfer of Alcohol License – Rose Garden**

57 Chair Simas opened the public hearing at 7:37pm.

58

59 **Steve Matellian MOVED** that the Select Board vote to approve the All-Alcohol Beverages  
60 License §12 On-Premises Transfer from KCLC, Inc. dba Rose Garden Restaurant & Lounge  
61 submitted by Agucate Grill LLC, dba Rose Garden Restaurant and Lounge at 16 Milford Street,  
62 Upton, license issuance contingent upon satisfactory inspections and submission of all required  
63 documents, fees, and payments of municipal charges.

64 **Second: Select member Dwinnell, Unanimous, Chair Simas.**

65

66 The Public Hearing was closed at 7:46pm

67

68 **7:35 PM – Public Hearing – Common Victualler License – Rose Garden**

69 Chair Simas opened the public hearing at 7:46pm.

70

71 **Steve Matellian MOVED** that the Select Board vote to approve the Common Victualler' s  
72 License to Cook, Prepare and Serve Food submitted by Agucate Grill LLC, dba Rose Garden  
73 Restaurant and Lounge at 16 Milford Street, Upton, license issuance contingent upon  
74 satisfactory inspections and submission of all required documents, fees and payments of  
75 municipal charges.

76 **Second: Select member Dwinnell, Unanimous, Chair Simas.**

78 The Public Hearing was closed at 7:50pm

79

80 **7:40 PM – Public Hearing – Entertainment – Rose Garden**

81

82 Chair Simas opened the public hearing at 7:50pm.

83

84 **Steve Matellian MOVED** that the Select Board vote to approve the Outdoor Entertainment

85 License submitted by Agucate Grill LLC, dba Rose Garden Restaurant and Lounge at 16 Milford

86 Street, Upton, license issuance contingent upon satisfactory inspections and submission of all

87 required documents, fees, and payments of municipal charges.

88 **Second: Select member Dwinnell, Unanimous, Chair Simas.**

89

90 The Public Hearing was closed at 7:53pm

91

92 **JOINT MEETING WITH ECONOMIC DEVELOPMENT COMMITTEE**

93 **Discussion of Town Center Development Request for Proposal (RFP)**

94

95 The Board reviewed the most recent draft of the Town Center Development Request for

96 Proposals (RFP) presented by Dave Ross and will be forwarded to town counsel for legal review.

97 The BoS wants to meet with EDC before posting RFP scheduled for later this month.

98

99 **Warren Street Parklet Update**

100 Discussions are focused on the environmental qualities of the site (wetlands and riverfront) as

101 well as logistic issues with the town parking lot reconfiguration, the roundabout, and the

102 discontinuation of Warren Street. An article to discontinue Warren Street for the

103 reconfiguration of the parking lot will be submitted at the STM.

104

105 **APPOINTMENTS/RESIGNATIONS**

106 **Resignations – Board of Assessors**

107

108 The Board reviewed a letter from Kelly McElreath submitting her resignation from the Board of

109 Assessors. The Board of Assessors also submitted a letter to the Board of Selectmen notifying of

110 vacancies on the Board due to the passing of James Earl and the resignation of Kelly.

111

112 **Steve Matellian MOVED** that the Board of Selectmen vote to accept the resignation of Kelly

113 McElreath from the Board of Assessors, with regrets.

114 **Second: Select member Dwinnell, Unanimous, Chair Simas.**

115

116 **Appointment - Board of Health**

117 There were two applications for consideration for appointment: Laura Hebb and Alan

118 Rosenfield.

119 The now vacated three-year term and is set to expire at the 2024 Annual Town Election. The  
120 appointee's term will run through the 2023 Annual Town Election and the remaining one (1)  
121 year of term will be placed on the 2023 Annual Town Election Ballot.

122

123 **Mr. Desjardins MOVED** to appoint Alan Rosenfield to fill a vacancy on the Board of Health for a  
124 term expiring May 2023.

125 Second: Mr. Briggs

126

127 **Mr. Matellian MOVED** to appoint Laura Hebb to fill a vacancy on the Board of Health for a term  
128 expiring May 2023.

129 Second: Ms. Dwinnell

130 **Ms. Dwinnell aye, Mr. Matellian aye, Mr. Simas aye.**

131

## 132 **BOARD OF SELECTMEN DISCUSSION**

### 133 **Street Sign Request**

134 A Street Sign Request for a Blind Drive/ Dangerous Curve was submitted by the resident at 39  
135 Christian Hill Road. The request was being reviewed by the Police Chief and the DPW Director  
136 and approved.

137

138 **Mr. Matellian MOVED** that the Select Board vote to approve the request for a Blind Drive to be  
139 installed near 39 Christian Hill Road and that it be installed as directed by the DPW Director.

140 **Second: Select member Dwinnell, Unanimous, Chair Simas.**

141

### 142 **149 Main Street – Regulatory and Use Agreement - Local Initiative Program**

143 Material submitted by Kevin Lobisser, manager for 149 Main Street LLC supporting the request to  
144 execute a Regulatory and Use Agreement and a "Springing" Agreement, both required by DHCD. A  
145 new Regulatory and Use Agreement is required because of the change in the Subsidizing Agency  
146 from MassHousing to DHCD now that it is a Local Initiative Project (LIP). The existing Regulatory and  
147 Use Agreement will be released by MassHousing immediately prior to the recording of the new  
148 Regulatory Agreement.

149

150 **Mr. Matellian MOVED** that the Board vote to approve entering into that Regulatory and Use  
151 Agreement under the Massachusetts Department of Housing and Community Development  
152 (DHCD) Local Initiative Program (LIP) for the 40B development known as 149 Main and located  
153 at 149 Main Street in Upton, MA and to authorize the Chairman to execute such Regulatory  
154 Agreement on behalf of the Town, and in the requisite number of duplicate originals as  
155 required by DHCD; and authorize the Chairman to submit a confirmatory letter to DHCD of such  
156 vote and authorization together with a certified copy of the vote as prepared by the Clerk.

157 And

158 To authorize the Chair of the Upton Board of Selectmen to execute the DHCD-approved form of  
159 the Local (Springing) Regulatory Agreement subject to review and modification, as needed, by  
160 Town Counsel.

161 **Second: Select member Dwinnell, Unanimous, Chair Simas.**

162

163 **Special Town Meeting Draft Warrant Articles**

164 Staff that are sponsoring an article will be in attendance at the next scheduled meeting of the  
165 Board.

166

167 **MINUTES**

168 Passed over.

169

170 **EXECUTIVE SESSION**

171 MGL c.214, S. 1B and MGL c. 4, S. 7, Clause 220 26c to discuss financial assistance to  
172 residents in need.

173 M.G.L. Ch. 30A, § 21 (a)(3) To discuss strategy with respect to litigation if an open meeting may have a  
174 detrimental effect on the litigating position of the governmental body. 104 Westboro Road– Upton  
175 Board of Health, et al. v. Cristina, Central Housing Court Docket No. 18H85CV000436

176

177 **ANTICIPATED ADJOURNMENT**

178 **Maureen Dwinnell MOVED** to adjourn the meeting of September 6, 2022 at 9:45 PM.

179 Second: Select member Matellian, Unanimous, Chair Simas.

180

181 Respectfully submitted,

182 Sandra Hakala, Executive Assistant