

TOWN OF MILLBURY  
BOARD OF SELECTMEN MEETING MINUTES

January 10, 2023

6 PM

**Present:** Mary Krumsiek, Katie McKenna, Scott Despres, and David Delaney  
Sarah Murray, Rose Bednar, Donna Nagelschmidt, Eric S. Arthur, Cathy and Sean O'Connell,  
Steve Sterns, Joe Arsenault, John Avger, Douglas Johnson  
**Zoom:** Ariordan, Aaron Stowbridge, Cmarden, Chris Naff, Cassie, Lisa, Connor, Fran  
DeSimone, LK, Michael, Tyler Henseler

Chairman Krumsiek read the following statement:

"On May 24, 2022, SJV Investments presented its proposed plan for Rice Pond Village, a 192-unit 40B Housing Project to be located on Rice Rd. A much smaller development plan without an affordable housing element had been the subject of nearly a year of Public Hearings and discussions held by the Millbury Planning Board. After a couple of modifications to the proposed development, the Planning Board denied the developers application in February 2022.

In/ Around April 2022, the developer approached the Board of Selectmen and expressed his desire to move forward with the 40B proposal utilizing the local initiative program under 40B. This so-called "friendly" 40B allows for discussion/negotiation between the Board of Selectmen and the developer. While this approach can be controversial because any agreement between the parties constitutes an "endorsement" of the project by the Town, on June 14, 2022, the Board of Selectmen, after consultation with counsel and an independent consultant, authorized Selectmen Krumsiek and Delaney and the Town Manager to enter into discussions with the developer to ensure that the town had some input into the conduct of the project.

While the development agreement contains various details, two significant items were negotiated: if the project is approved by the state, the developer will be responsible for installation of a sidewalk on Rice Rd that extends from the driveway of the project to the intersection of Rice Rd and South Main St and a \$100,000 cash payment to the town.

Two of the Town's major considerations were not part of the development agreement: improvements to the intersection of Providence St and improvements to the railroad crossing on Rice Rd. Throughout the nearly six months of negotiations, the Town held firm to these issues, but after discussions with an independent consultant, counsel, and the Department of Housing and Community Development, the Town learned that these items were likely not going to be forced upon the developer, even absent a development agreement. DHCD has not historically enforced, upon a municipality or a developer, improvements to privately held utility area, such as railroads. Also, neither the Town nor the developer have property rights in the area of the intersection of Providence St and Rice Rd. DHCD does not have a history of forcing, and likely does not have the right to force towns into eminent domain takings, nor can it or will it impose such road improvements upon a developer when private land rights are in play.

The developer knows these conditions as well. Absent the likelihood of imposition by the state, the Town had limited/ no leverage to impose them in a development agreement, and the developer had little/ no incentive to agree to such obligations.

## TOWN OF MILLBURY

### BOARD OF SELECTMEN MEETING MINUTES

While a majority of the Board agrees that the project is not an ideal fit at the proposed location, for a variety of reasons, the Board felt it important to be able to advocate for the Town and gain some concessions for the developer. So, while the execution of a LIP Development Agreement legally constitutes endorsement of the project, it in no way means that the Selectmen believe that the project is the best idea for that location.

On October 25, 2022, the Board of Selectmen voted to authorize the Chair to execute the negotiated development agreement with SJV investments. On December 21 and December 27, 2022, respectively, the Chair of the Board of Selectmen and the Developer executed a development agreement associated with this 40B project.

This matter will now proceed in accordance with the statutory provisions of MGL 40B. The Town will ensure that the Zoning Board of Appeals has any/ all support it needs as it navigates the Developer's anticipated application. Absent some change requiring its involvement, the Board does not plan to entertain additional discussion on this matter."

#### **Citizens Speak**

Steve Stearns, Brian, Joe Arsenault, Fran DeSimone, Cathy O'Connell, Michelle Frigon and Rose Bednar expressed their concerns about the intersection at the railroad on Providence St and the Rice Rd neighborhood. Steve Stearns added a Verizon pole that needs to be removed. The residents expressed concerns about increase in traffic, public safety, and trash around the neighborhood. The Board stated that they are aware of the public safety concern and will be focusing on it once the development goes in place. The Board acknowledged that they want to fix the intersection but they have to see once the development goes into place. Residents expressed that they would like the town to use funds from the project to better the neighborhood, the Town Manager agreed and stated the focus will be on the public. Selectman Naff stated that it was mentioned at the Fall Town Meeting and he has been in contact with residents to discuss how the funds should be used.

#### **Public Hearing**

**PH-1** The Millbury Board of Selectmen will hold a Public Hearing on Tuesday January 10, 2023, at **6:00 p.m.** at the Municipal Office Building, 127 Elm Street, Millbury, MA to act upon the application for a Transfer of License for Round Robin of Millbury, LLC to Red Robin International, Inc. Located at 70 Worcester Providence Turnpike Millbury, MA 01527.

Motion to open the Public Hearing by Selectman, seconded by Selectman. Motion carried unanimously.

Tyler Henseler stated it's a regular exchange of ownership. The manager of the branch is Mike Heleram. Its an individual LLC that is being sold back to Red Robin International.

Motion to close the Public Hearing by Selectman Naff, seconded by Selectman Delaney. Motion carried unanimously.

Motion to approve application for a Transfer of License for Round Robin of Millbury, LLC to Red Robin International, Inc. Located at 70 Worcester Providence Turnpike Millbury, MA 01527 by Selectman McKenna, seconded by Selectman Despres. Motion carried unanimously.

**TOWN OF MILLBURY**  
**BOARD OF SELECTMEN MEETING MINUTES**

**PH-2** NOTICE IS HEREBY GIVEN that the Millbury Board of Selectmen will hold a public hearing to consider opting out of vote by mail for the Annual Town Election. Said hearing will be held on January 10, 2023 at **6:10 PM** at the Municipal Office Building 127 Elm Street, Millbury, Ma 01527. Said hearing will be conducted pursuant to the provisions of Massachusetts General Laws, Chapter 54, Section 25B (a) (1).

Motion to open Public Hearing by Selectman Despres, seconded by Selectman McKenna.  
Motion carried unanimously.

Jayne stated that the rate of mail in ballot has decreased a lot over the past years therefore we should opt of for the Town Election.

Motion to close by Selectman Naff, seconded by Selectman McKenna. Motion carried unanimously.

Motion to opt out of vote by mail for the Annual Town Election by Selectman Despres, 2<sup>nd</sup> by Selectman Delaney and on a roll call vote with Selectman Despres, Selectman Naff and Selectman Delaney and Selectman Krumsiek all in favor, Selectman McKenna opposed, the vote was approved 4-1.

**New Business**

**NB-1 Approve estimated seasonal population for 2023 ABCC**

Motion to approve the estimated seasonal population for 2023 ABCC by Selectman Despres, seconded by Selectman McKenna. Motion carried unanimously.

**Review & Approve Previous Minutes**

**PM-1 Minutes of November 15, 2022**

Motion to approve by Selectman McKenna, seconded by Selectman Delaney. Motion carried unanimously.

**Management Update**

The FHQ is coming together, the completion date for the project is in February 2023. We submitted the plan for the MBTA housing, nothing has been approved we have just submitted a plan for the requirements. Sean signed a contract for the Asa Waters Mansion, the plan is to put the cistern under the same parcel as the mansion. The Wellness committee has scheduled seminars, programs, and put healthy snacks to promote better health for staff. We received a couple grants. In a previous meeting a resident expressed concern about the Town tax billing process. The billing cycle is set by the Sewer Commission and moving it would affect other taxes but it's the decision of the Sewer Commission. The Small Business Recovery Grant Program is coming to an end. School Committee submitted the budget and will be conducting meetings to discuss. The liability insurance is out to bid. The Finance Committee is going to meet to discuss FY24 budget and the warrant and the budget should be ready for residents by April. McCracken Rd is looking much better, a lot of work is done. One lane on the road will always stay open so there should be no long term closures. The Town of Millbury will have access to the Worcester County Foodbank. There is a new staff member for the clerks position in

**TOWN OF MILLBURY**  
**BOARD OF SELECTMEN MEETING MINUTES**

the Assessor's office, Lee's position is posted as well and there are some candidates for it. There have been some candidates for the Assistant Planner position and Conservation Agent Position as well. Selectman Naff stated the sidewalk near the Municipal lot has a huge puddle that should be addressed, Sean stated he is contact with the contactor about it. He also added that on South Main St there is a sign that has paid parking but people are parking there without paying, we should address enforcing parking rules. Sean stated that he is talking to the Police Chief about this issue. The Lions Club donated money and was very helpful with organizing food for the pantry. Selectman Despres gave credit to Sean for his hard work.

**Dates to Remember**

- \$10 Open Burning Permit at FHQ
- Nomination Paper for Town Election at the Town Clerk's; Papers need to be returned on 3/7
- Dog Licenses and Census available in January

**7:52 PM Executive Session**

Executive Session in accordance with M.G.L. Ch. 30A, s. 21(a)(6): To consider the purchase, exchange, lease, or value of real property if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the Chair so declares.

- 26 McCracken Road

**8:15 PM Adjourn Meeting**

Motion to adjourn the meeting by Selectman McKenna, seconded by Selectman Naff. Motion carried unanimously.

Respectfully submitted,

Amy Fleming, Secretary

Mary Krumsiek

Katie McKenna

Scott Despres

Chris Naff

David Delaney

Handwritten signatures of the five board members over horizontal lines. From top to bottom, the signatures are: Mary Krumsiek, Katie McKenna, Scott Despres, Chris Naff, and David Delaney. The signatures are written in blue ink.