

Town of Amherst
UNNOFICIAL RECORD OF VOTES OF THE TOWN COUNCIL

Monday, August 2, 2021

6:30 p.m.

Virtual Meeting

Councilors Participating Remotely: Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, Swartz

Councilors Absent: None

Councilor Swartz left the meeting during executive session and was not present when the Council reconvened at 8:15.

Councilor De Angelis left the meeting at 8:55 pm.

Others Participating Remotely: Town Manager Paul Bockelman, Assistant Town Manager David Ziomek, Clerk of the Council Athena O’Keeffe, Finance Director Sean Mangano, Planning Director Christine Brestrup, Town Planner Ben Breger, Town Clerk Sue Audette, KP Law Attorneys Lauren Goldberg and Gregg Corbo, Minute-Taker Emily Reardon, Amherst College Representatives Thomas Davies and Seth Wilschutz, Roll Barresi Representatives Andrew Barresi, and Sam Pease, Bacon and Wilson Attorney Thomas Reidy

When remote participation is used, all votes will be taken by roll call.

Per MGL Chapter 30A Section 20(f), this meeting is being recorded and broadcast by Amherst Media.

President Griesemer called the Town Council meeting to order at 6:33 p.m.
President Griesemer declared the Town Council meeting adjourned at 11:34 p.m.

15. Executive Session

MOVED: To convene in executive session under MGL c.30A§21(a) 3, To discuss strategy with respect to litigation: Superior Court Civil Action No. 2180CV00081 Terry Y. Allen et al. vs. Board of Registrars of the Town of Amherst; as an open meeting may have a detrimental effect on the litigating position of the body. The Town Council **will** reconvene in open session following the executive session for the remainder of the regular meeting agenda.

Motion by: Griesemer

Seconded by: Steinberg

ROLL CALL VOTE: Unanimous

Town Council entered executive session at 6:36 pm

Town Council returned to open session at 8:18 pm

5. Consent Agenda

Consent Agenda: The following items were selected because they were considered to be routine and it was reasonable to expect they would pass with no controversy. To remove

an item from the consent agenda for discussion later in the meeting, ask that it be removed when the President lists the consent agenda items. The request to remove an item from the consent agenda does not require a second.

MOVED: To move the following items, and the printed motions thereunder and approve those items as a single unit:

- Suspension of Town Council Rules of Procedure rule 8.4 for the following agenda items:
 - 8.c.(2) Mass DOT Shared Streets and Spaces Grant: Rectangular Rapid Flashing Beacons at East Pleasant and Triangle Streets
 - 8.d. Release of Easement – Lot 6 South East Street
 - 8.e. Designate Town Services and Outreach Committee hold Public Hearings Required under General Bylaw 3.14 and Town Council Policy Regarding the Control and Regulation of the Public Ways section 2.c.
- 8.g. Approval of Participation in the Property-Assessed Clean Energy (PACE) Municipal Program
- 11.a. Approval of the July 12, 2021 Regular Town Council Meeting minutes

Motion by: Griesemer

Seconded by: De Angelis

ROLL CALL VOTE: 12-0, 1 absent (Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; Swartz was absent)

8. Action Items

a. Placement of a question on the ballot at the November 2, 2021 Town Election concerning the measure voted by the Town Council on April 5, 2021 approving the borrowing for the expansion and renovation of the Jones Library

MOTION: To suspend Town Council Rules of Procedure rule 8.4 for the current agenda item.

Motion by: Griesemer

Seconded by: Ryan

ROLL CALL VOTE: 12-0, 1 absent (Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; Swartz was absent)

MOTION: Moved that pursuant to Section 8.6 of the Town Charter, that the Town Council place a question before the voters of the Town at the November 2, 2021 Town Election the measure seeking affirmation of the Town Council's April 5, 2021 vote to fund the expansion and renovation of the Jones Library, and that the question and summary take the following form:

QUESTION: Shall the following measure authorizing a borrowing for the expansion and renovation of the Jones Library, as voted by the Town Council on April 5, 2021, be affirmed?

BE IT ORDERED by the Town Council of the Town of Amherst that: The Town appropriate \$35,279,700 for the expansion and renovation of the Jones Library, and to meet this appropriation, authorize the Treasurer, with the approval of the Town Manager, to borrow said amount, under and pursuant to M.G.L. Chapter 44, Section 7, 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore, which borrowing shall be reduced to the extent of any grants received from the Massachusetts Board of Library Commissioners, funds received from The Jones Library, Incorporated in an amount no less than \$5,656,576 which, in addition to the \$1,000,000 previously appropriated under the Community Preservation Act, represents the Library's share of the total project cost, and/or any other source to pay costs of this project; and, further, any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to costs of issuance of such bonds or notes, may be applied to project costs approved by this vote with a reduction of borrowing authority therefore by a like amount in accordance with M.G.L. Chapter 44, Section 20.

SUMMARY: On April 5, 2021, the Town Council voted with 10 in favor, 2 opposed, and 1 abstention, to authorize a borrowing for the expansion and renovation of the Jones Library. The Massachusetts Board of Library Commissioners has awarded the Town a grant of approximately \$13.8 million for this project with payments starting this year; approximately \$5.7 million will be provided through private donations as set forth in an agreement with the Jones Library Board of Trustees; and \$1.0 million was appropriated from the Community Preservation Act funds. With these funds secured, the Town's share of the total project costs will be approximately \$15.8 million. A "yes" vote on this question means that you affirm the Council's vote to fund the Library expansion and renovation project and want the project to continue. A "no" vote means that you reject the Council's vote to fund the Library expansion and renovation project and do not want the project to continue.

Motion by: Griesemer

Seconded by: Schoen

ROLL CALL VOTE: 9-3, 1 absent (Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Pam, Ryan, Schoen, and Steinberg voted Yes; Hanneke, Ross, and Schreiber voted No; Swartz was absent)

b. Election Update and Polling Locations

MOVED: To provide in-person voting on November 2, 2021 at the following polling locations:

- District 1, Voting Precinct 1: North Zion Korean Church, Church Hall, 1193 North Pleasant Street
- District 2, Voting Precinct 2: Amherst- Pelham Regional High School, 21 Mattoon Street
- District 1, Voting Precinct 3: Immanuel Lutheran Church, 867 North Pleasant Street
- District 3, Voting Precinct 4: Amherst-Pelham Regional High School, 21 Mattoon

Street

- District 4, Voting Precinct 5: Bangs Community Center, 70 Boltwood Walk
- District 2, Voting Precinct 6: Fort River School, 70 South East Street
- District 5, Voting Precinct 7: Crocker Farm School, 280 West Street
- District 5, Voting Precinct 8: Munson Memorial Library, South Amherst Common, 1046 South East Street
- District 4, Voting Precinct 9: Wildwood School, 71 Strong Street
- District 3, Voting Precinct 10: Amherst- Pelham Regional High School, 21 Mattoon Street

Motion by: Griesemer

Seconded by: Ryan

ROLL CALL VOTE: 11-0, 2 absent (Bahl-Milne, Brewer, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; De Angelis and Swartz were absent)

c. Other Requests for Permanent Changes to the Public Way

(1) Amherst College Request for Placement of Signage

MOVED: To refer the Amherst College request for permanent changes to the public way to the Town Services and Outreach Committee, for a Public Hearing if needed, with a report and/or update to the Town Council by September 27, 2021.

Motion by: Griesemer

Seconded by: Ryan

ROLL CALL VOTE: 11-0, 2 absent (Bahl-Milne, Brewer, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; De Angelis and Swartz were absent)

(2) Mass DOT Shared Streets and Spaces Grant: Rectangular Rapid Flashing Beacons at East Pleasant and Triangle Streets Crosswalks

VOTED VIA CONSENT AGENDA:

MOVED: To suspend Town Council Rules of Procedure rule 8.4 for the current agenda item.

MOVED: To approve the installation of Rapid Response Flashing beacons with audible push-buttons at the crosswalk at each of the following intersections:

- Intersection of Triangle Street, Pray Street, and Cottage Street
- Intersection of East Pleasant and Pray Street
- Roundabout at the intersection of East Pleasant and Triangle Street

Motion by: Griesemer

Seconded by: Ryan

ROLL CALL VOTE: 11-0, 2 absent (Bahl-Milne, Brewer, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; De Angelis and Swartz were absent)

d. Release of Easement – Lot 6 South East Street

VOTED VIA CONSENT AGENDA

MOVED: To suspend Town Council Rules of Procedure rule 8.4 for the current agenda item.

MOVED: To authorize the Town Manager to sign the Release of Easement regarding the parcel of land located at and known as Lot 6 South East Street, described in a deed recorded in the Hampshire County registry of Deed at Book 11552 Page 246.

Motion by: Griesemer

Seconded by: Hanneke

ROLL CALL VOTE: 11-0, 2 absent (Bahl-Milne, Brewer, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; De Angelis and Swartz were absent)

e. Designate Town Services and Outreach Committee to hold Public Hearings Required under General Bylaw 3.14 and Town Council Policy Regarding the Control and Regulation of the Public Ways section 2.c.

VOTED VIA CONSENT AGENDA

MOVED: To suspend Town Council Rules of Procedure rule 8.4 for the current agenda item.

MOVED: To designate the Town Services and Outreach Committee to hold Public Hearings Required under General Bylaw 3.14 and Town Council Policy Regarding the Control and Regulation of the Public Ways section 2.c.

Motion by: Griesemer

Seconded by: Ryan

ROLL CALL VOTE: 11-0, 2 absent (Bahl-Milne, Brewer, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; De Angelis and Swartz were absent)

f. Rules of Procedure: Addition of Committees Designated to hold hearings on behalf of the Town Council

MOVED: To refer to the Governance, Organization, and Legislation Committee the addition of Council committees designated to hold hearings on behalf of the Town Council to the Rules of Procedure, with a report back to the Town Council by September 13, 2021.

Motion by: Griesemer

Seconded by: Ryan

ROLL CALL VOTE: 9-0-2, 2 absent (Bahl-Milne, Brewer, DuMont, Griesemer, Hanneke, Ross, Ryan, Schreiber, and Steinberg voted Yes; Pam and Schoen Abstained; De Angelis and Swartz were absent)

g. Property-Assessed Clean Energy (PACE)

VOTED VIA CONSENT AGENDA:

MOVED: To authorize participation in the Massachusetts Commercial Property Assessed Clean Energy Program (PACE) as defined under M.G.L. c 23M, as follows:

Vote Authorizing the City known as the Town of Amherst to Participate in the Massachusetts Commercial Property Assessed Clean Energy Program (PACE Massachusetts)

WHEREAS, pursuant to M.G.L. c. 23M, as amended (the "PACE Act"), the Commonwealth has established a commercial sustainable energy program known as the Massachusetts Property Assessed Clean Energy Program ("PACE Massachusetts") to provide a financing mechanism ("PACE financing") to private owners of commercial and industrial properties for certain qualifying commercial energy improvements ("improvements"); and

WHEREAS, pursuant to the PACE Act, PACE Massachusetts is administered by the Massachusetts Development Finance Agency ("MassDevelopment"), in consultation with the Massachusetts Department of Energy Resources; and

WHEREAS, under PACE Massachusetts, the owner of the commercial or industrial property benefitting from the improvements (the "benefitted property") is required to repay the PACE financing through the payment of a betterment assessment (a "PACE betterment assessment") placed on such benefitted property by the municipality in which the benefitted property is located; and

WHEREAS, in order for an owner of commercial or industrial property to participate in PACE Massachusetts, Section 2 of the PACE Act requires that the municipality in which such property is located must elect to participate in PACE Massachusetts; and

WHEREAS, the City known as the Town of Amherst (the "Municipality") has determined that it is in the best interest of the Municipality to participate in PACE Massachusetts as a "participating municipality," as provided in the PACE Act, to permit the owners of commercial and industrial properties located in the Municipality to access PACE financing for qualifying commercial energy improvements through PACE Massachusetts;

WHEREAS, NOW THEREFORE, BE IT VOTED as follows:

The Town Council of the City known as the Town of Amherst hereby approves the Municipality participating in PACE Massachusetts pursuant to the PACE Act, and authorizes the Town Manager to enter into a PACE Massachusetts Municipal Assessment and Assignment Agreement (the "Agreement") with MassDevelopment, pursuant to which the Municipality will agree to (i) levy PACE betterment assessments and impose PACE betterment assessment liens on benefitted properties located in the Municipality, in the amounts determined by MassDevelopment to be sufficient to repay the PACE financing, (ii) assign the PACE betterment assessment liens to MassDevelopment, which MassDevelopment may in turn assign to the providers of the PACE financing (each a "capital provider"), as collateral for such PACE financing, (iii) include on the property tax bills for the benefitted properties the installment payments necessary to repay the PACE betterment assessments, in the amounts and at the times as determined by MassDevelopment, (iv) collect and pay over to MassDevelopment or its designee, the PACE betterment assessment installment payments, as and when collected, and (v) enforce, to the extent required by the Agreement, the PACE betterment assessments and liens; the Agreement to be substantially in the form presented to this meeting, with such changes, modifications and insertions as the Town Manager may approve as being in the best interest of the Municipality. The Collector Treasurer of the Town or such other Town agency as may be designated in the Agreement is authorized to levy such PACE betterment assessments and impose the PACE betterment assessment liens on behalf of the Town without further authorization by this legislative body.

Notwithstanding any other provision of law to the contrary, officers and officials of the Municipality, including, without limitation, municipal tax assessors and tax collectors, are not personally liable to MassDevelopment or to any other person for claims, of whatever kind or nature, under or related to PACE Massachusetts, including, without limitation, claims for or related to uncollected PACE betterment assessments. Other than fulfillment of the obligations specified in the Agreement, the Municipality has no liability to the owner of the benefitted property or to any capital provider related to the Municipality's participation in PACE Massachusetts.

h. Energy and Climate Action Committee Charge

MOVED: To adopt the changes to the Energy and Climate Action Committee charge as shown in the document named "ECAC Charge as voted by GOL 7-28-21 REDLINED," effective January 3, 2022.

Motion by: Griesemer

Seconded by: Hanneke

ROLL CALL VOTE: 8-2-1, 2 absent (Bahl-Milne, DuMont, Griesemer, Hanneke, Ross, Ryan, Schreiber, and Steinberg voted Yes; Brewer and Pam voted No; Schoen Abstained; De Angelis and Swartz were absent)

MOVED: To amend the motion to remove the words "effective January 3, 2022."

Motion by: Hanneke

Seconded by: Griesemer

ROLL CALL VOTE: 4-4-3, 2 absent (Brewer, Hanneke, Ross, and Ryan voted Yes; DuMont, Griesemer, Schreiber, and Steinberg voted No; Bahl-Milne, Pam, and Schoen Abstained; De Angelis and Swartz were absent)

The motion failed.

9. Appointments

b. Town Council Appointments

(1) Jones Library Building Committee – Recommend One Town Councilor to Town Manager

MOVED: To recommend to the Town Manager that Councilor George Ryan be appointed to the Jones Library Building Committee.

Motion by: Griesemer

Seconded by: Hanneke

ROLL CALL VOTE: 11-0, 2 absent (Bahl-Milne, Brewer, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; De Angelis and Swartz were absent)

(2) Energy and Climate Action Committee: Recommend extension of Councilor DuMont's Term to January 2, 2022 to Town Manager

MOVED: To recommend to the Town Manager an extension of Councilor DuMont's term on the Energy and Climate Action Committee to January 2, 2022.

Motion by: Griesemer

Seconded by: Schoen

ROLL CALL VOTE: 11-0, 2 absent (Bahl-Milne, Brewer, DuMont, Griesemer,

Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, and Steinberg voted Yes; De Angelis and Swartz were absent)

11. Approval of Minutes

VOTED VIA CONSENT AGENDA

MOVED: To adopt the July 12, 2021 Town Council Meeting minutes, as presented.

DRAFT