

**Town of Sherman
Board of Selectman Special Meeting
October 1, 2021 at 12:15 pm
Mallory Town Hall**

Member's Present: First Selectman Don Lowe, Selectman Bob Ostrosky, and Selectman Kevin Keenan

Member's Absent: None

Audience & Invited: Business Manager Liz LaVia, members of the BOE, and residents from the community

Clerk: Margaret Beatty

First Selectman Don Lowe called the meeting to order at 12:18 pm followed by the reciting of the Pledge of Allegiance.

First Select Don Lowe opened the meeting by reminding the public that a Town Meeting was held on September 14, 2021 to approve funds to address the deteriorating roof at the Sherman School. The Town voted unanimously to allocate an amount not to exceed \$575,000 for a new portion of roof. He went on to explain that the BOE voted to rescind the funds for the project on Wednesday, September 29, 2021. The outcome of the BOE meeting prompted First Selectman Don Lowe, with the approval of his respective Selectman, to seek counsel from the town attorney to supersede the BOE decision on their withdrawal. He then read the opinion of Town counsel to the public in which the lawyer advised against entering into a letter of intent to supersede the BOE and take over the roofing project. Superseding the BOE by signing the roofing contract goes against state statute 10-220 which gives the BOE full authority over the maintenance management of their building. He opened up discussion to the respective Selectman.

Selectman Kevin Keenan reiterated the opinion of town counsel and advised against entering into a contract. First Selectman Don Lowe added that town counsel confirmed that if litigated the town would lose.

Selectman Bob Ostrosky reiterated that the School roof is in dire need of repair. He confirmed that the town voted unanimously to fund the project and commented that no member from the BOE or residents shared any new ideas at the Town Meeting that took place September 14th. He also went on to discuss a reference to a grant program OSCG&R, Office of School Construction Grants & Review, but commented that this type of funding was never discussed prior to the project for consideration. He restated that the new development in the project is in direct conflict to what the voters decided.

First Selectman Don Lowe outlined that the concerns that were reintroduced at the Maintenance Committee meeting held on September 29, 2021 were discussed during the Town Meeting on September 14, 2021 and residents voted to proceed with the project. He questioned why 4 BOE members unilaterally decided to pull the plug on a project that the resident unanimously voted. He took the opportunity to genuinely appeal to the BOE to reconsider their stance on the project. He stated that any new projects moving forward would be hard to persuade the voting public.

Discussion was opened up to the public.

Rick Hudson of Crooked Furrows commented that when the project was brought forward to a Town Meeting the BOE ceded control of the project to the voters therefore relinquishing ownership to the Town. He believes that the BOE has no basis to withdraw support for the project. He stated the project was handed off to be signed off by the BOS and voters. First Selectman Don Lowe commented that the underlining issue with the project revolves around which party was responsible for putting the bid out and the BOE was the responsible party mudding the water for the town to intervene. First Selectman Don Lowe also cited that he was informed that he was not allowed to speak to the superintendent, school business manager, and maintenance director about the specifics of the project in which he suspects was at the direction of BOE leadership.

Erin Bonner of Anderson Road commented that it should be concerning that the information cannot be shared with Town leadership. She also raised concern that Town leadership should be more aggressive about obtaining public information.

First Selectman Don Lowe commented that currently the Town has no access to important information in order to make an educated decision to take over the contract. Selectman Bob Ostrosky added that the contracted company, Barret Construction, communicated that the materials intended for the project will be given away if a contract is not signed by the weekend of October 2, 2021 hence the urgency for the meeting.

Business Manager Liz LaVia raised questions about the grants being considered. She questioned if the grants are Town matching. She mentioned that many state grants are not guarantee grants. First Selectman Don Lowe added that he has concerns that the public will not approve costly temporary solution to fixing the roof.

James Nuenzig, BOE Chair, explained that he agrees that the school needs a new roof. He added that a majority of members present at a board meeting voted to bring the project forward, at that meeting only 4 members were present and the vote resulted in a 3 to 1 approval. The Maintenance Committee, with additional information, decided to engage the state. Ultimately he concluded that the decision to proceed was a mistake. He complained that the BOS expressed a lack of confidence in the BOE's Maintenance Committee.

Kasey Diotte of Mountain Road commented that the most important aspect of the process left out of the discussion is the Town Meeting. She stated the town voted to approve the project after the vote 4 members decided to rescind the project. She further stated that members of the Maintenance Committee are not building experts, they do not have credentials to make decisions but the school's facilities manager does. Outside parties have all agreed that the roof needs to be fixed. She reiterated that it is not up to 4 board members to decide how the process is done and the residents have voted. She cautioned that the potential for a class action lawsuit is a viable possibility. She noted the school is treading on dangerous ground if action is not taken.

Matt Vogt, BOE and Maintenance Committee member, commented that he does not disagree the roof needs to be fixed. The concern lies within the possibility of larger scale problems of the building when the roof is removed. He is concerned there is no plan to address other problems ballooning the expense. He suggests we need a plan that is all encompassing. He encourages we have a plan to do it properly. Selectman Bob Ostrosky commented that he understands the point of the Maintenance Committee but does not agree with the methodology. He also noted the Town is culpable if something tragic would happen and a temporary fix is unacceptable. Selectman Kevin Keenan also commented that he is a contractor and has years of experience dealing with projects. He added that the only parties that have experience with roofs are roofing companies. He stated that if a contractor evaluated the problem they should have provided a cursory opinion of the sub roofing. An experienced contractor will minimize the unknowns. He emphasize that the fear of finding something catastrophic is unfounded. He also added that getting opinions from the state means nothing if the party giving advice has had no experience supervising a project. Selectman Bob Ostrosky noted the school board is stuck in analysis paralysis.

Business Manager Liz LaVia questioned why a temporary fix to a problem is a better alternative. Issues of possible or probable mold that can be harmful to children's health are being ignored so that a process is followed in order to plan for a problem/problems that may or may not exist. The money has been allocated for the project and if problems were to arise the Town would not question fixing the issues, the safety of the children is the most important.

First Selectman Don Lowe made a final plea to the BOE to reconsider their stance.

Selectman Bob Ostrosky for clarification noted that the Town attorney said the Town must rescind the original request and request a new plan for the roof which will have to go to Town Meeting.

James Nuenzig asked for advice on what process the BOE should follow so the right decision is made. Selectman Kevin Keenan commented that the BOE should follow what has already been approved. Selectman Bob Ostrosky added that whatever has been decided it has to be brought to a Town Meeting. Mr. Nuenzig added he would like something in writing with guidance on

how to proceed forward because a new board will be coming in and that board can read what is expected of them.

Carrie Merkel of Cedar Lane addressed problems with the verbiage of the initial request for the roof. She stated the request was worded as repair and renovate the roof of the Sherman school. She noted that the language could be misinterpreted and set up the situation for confusion. She questioned that if additional information was obtained to guide the execution of the project could that fall under the wording that the Town voted and approved. Lastly, she was concerned that the timing of the project and the changing seasons could affect the projects timeline if problems are encountered that may need the expertise of other trades/contractors. She is concerned that a project could take longer due lack of materials and deeper issues that may extend the project into the foreseeable future. Selectman Bob Ostrosky commented that he never thought the Town needed to be more specific with respect to requests. He added he will request minuet specifics on any request or he will not move it forward, nothing will be left up for interpretation. Secondly, he asserted that it's easy to discuss what if's but it hinders moving projects forward. We are looking for problems that may or may not be present when there is documented roofing issues meanwhile all the hypothetical problems being discussed may/may not be getting worse. Selectman Kevin Keenan reiterated we are paralyzed by the fear of what could be in turn nothing consequential gets done. First Selectman Don Lowe cautioned that there is a new point of view addressing the project but no new information.

Dorinda Lenihan of Osborn Road pleaded with her colleagues on the BOE to reconsider their stance and move forward immediately with the project.

Rosemarie D'Ostilio commented that the BOE agreed on a comprehensive plan to upgrade the school but was informed that the plan would not be supported. The BOE decided to change course and create a new plan to address the most pressing issues of the school. She believes that there is a need for an overarching plan to address the problem or costs will balloon. Selectman Bob Ostrosky commented that the BOS told the BOE to bring plans forward and the BOS would support them. She stated that she voted for the resolution that encompassed a repair and/or renovation not to just replace the roof. She believes there are bigger picture problems that needs to be discussed. She believes we need a comprehensive project. Selectman Bob Ostrosky commented that, for legal reasons, the Town cannot sign the contract presented but encourage the BOE to bring all projects forward and the BOS would support them. On record, he stated that the projects would be supported by the BOS. Selectman Bob Ostrosky had to leave the meeting.

Kasey Diotte clarified comments made by Rosemarie D'Ostilio in reference the BOE rescinding their request to present a comprehensive build of the school to the BOS. She noted that the BOE submitted a plan to the BOS in November for feedback that was to be addressed in January. In the interim of the plan being reviewed, 4 members of the BOE voted to form a special committee in December on capital planning. The committee formed main charge would be to communicate with the Town the specific needs for a comprehensive project. As of now, a

plan has not been submitted by that committee. She went on to set the record straight that the BOE had to rescind their current position on the initial comprehensive building plan so that other plans can be explored. She stated the BOE cannot explore other options if the board is unanimous in support of one. She also stated that the BOS cannot take action on capital projects unless the BOE bring them forward and the Maintenance Committee has met 70 times in the last couple years without much to show for.

Amanda O'Neill of Big Trail asked a procedural question. She asked if there is a timeline when a request is received from the BOE to the BOS upon approval for a Town Meeting. First Selectman Don Lowe replied that when a request is presented the item is put on the agenda for a BOS Monthly Meeting for approval. If the item is pressing a Special Meeting will be warned and try to bring to a Town Meeting then. He stated the set guidelines are the warning times for set meetings. It varies around abilities for commissions to gather.

First Selectman Don Lowe concluded the meeting.

First Selectman Don Lowe adjourned the meeting at 1:25 pm.

Motioned by: First Selectman Don Lowe

Seconded by: Selectman Kevin Keenan **All In Favor:** Unanimous

Notes respectfully submitted on October 4, 2021 by Margaret Beatty.