

**Minutes of Regular Meeting
Board of Selectmen
Wednesday, January 4, 2017
Selectmen's Meeting Room – Town Hall
Called to Order at 7:00 p.m.**

Present were Selectmen Michael Harrity, Douglas P. Gillespie and Christopher Houston, chair. Also present were Town Manager Donna S. VanderClock, and Assistant Town Manager/Human Resource Director Lisa Yanakakis. Recording Secretary is Kara Fleming.

Videographer – James Tremble, Weston Media Center

Item 1 – Resident Comments

There were none. Mr. Houston took the opportunity to announce that Weston was recently recognized by the Massachusetts Municipal Association for having the best municipal website in the 5,000 to 15,000 population category.

Item 2 – Brief Presentation to the Board by Steve Schneider of Harvard

Mr. Schneider cancelled due to illness. This item was passed over.

Item 3 – Consider Increasing Parking Fines and Establishing New Violation Categories

Police Chief Michael Goulding

Chief Goulding presented an analysis of parking fines of neighboring towns, which showed that Weston's fines were considerably low and asked the Selectmen to bring the two categories in line by doubling the current rates from \$10 for a group A fine and \$15 for a group B fine. Chief Goulding said the increase would also help in curbing parking violations in the Drabbington Way neighborhood.

MOTION: Mr. Gillespie moved to increase the parking fines for Group A violation from \$100 to \$20 and for Group B violations from \$15 to \$30, effective immediately. 2nd by Mr. Harrity. **Approved unanimously**

Item 4 – Discuss Lamson Park Remediation Options

Jim Luker, Licensed Site Professional for Arcadis, and Chris Fitzgerald, Recreation director

Mr. Luker explained that during the site excavation for the new playground, some dark matter was uncovered, which turned out to be coal ash. As Mr. Luker explained, when coal burns the resulting ash contains lead and arsenic, which is consistent with what was found on site. Mr. Luker's firm also conducted historical research and found that a barn used to be sited on the land, which was removed when the Town took the land in 1926. Mr. Houston added that the question has been raised as to why the Town did not test the soil at the start of the project. He explained that since there was no reasonable thought the land was used for anything where there would be any known contaminants then it is industry standard not to conduct soil testing. Mr. Luker added that no information was available to indicate the potential for coal ash nor was there information available as to why coal ash would have been dumped on site. Mr. Luker continued to explain that the Department of Environmental Protection allows for a reporting exemption when found contaminant levels fall within a certain range, which is where these levels fell;

however, his firm reported the contaminants to the DEP in order to preserve a transparent process and to follow the DEP's outlined remediation process. During additional soil testing, another small area, on the ledge near the tree line was discovered to have elevated contamination levels, but this area will be closed off and an Active Use Limitation (AUL) will be placed since the area consists of ledge and brush that is ordinarily difficult to access. Mr. Fitzgerald said additional fencing would be installed in order to further close off the AUL area, which will effectively enclose the entire playground area. The fence will be a post and rail fence with indiscrete black wire mesh. Mr. Houston said he had been asked if the open area outside of the playground would be remediated. He said the land use would not be changing since it will be remaining as an open area so there is no reason to dig it up. Mr. Luker said there is no evidence to suggest that the contaminants extend into that area. Mr. Harrity said the actual contaminants were found four to six inches below ground. Ms. VanderClock added that a natural fabric will be placed on top of the clean soil and then 12 inches of playground mulch will be laid.

Ms. VanderClock said the remediation estimate is \$139,000 without any contingency or the cost for additional fencing. She added that there are some funds available, about \$30,000, but the remaining balance fits the reserve fund definition of unforeseen issues, and she will be seeking approval from the Finance Committee.

MOTION: Mr. Gillespie moved to endorse the request to seek approval from the Finance Committee to use reserve funds for the remediation. 2nd by Mr. Harrity. **Approved unanimously**

Item 5 – Review Special Town Meeting

Tom Crane, Moderator

The Selectmen discussed the recent Special Town Meeting with the Moderator to review thoughts and if there was anything that could be improved upon for future Town Meetings. Discussion points included the consent agenda becoming more accepted, consistent time limits for floor comments and to help speakers remain on topic, making amendments from the floor and how those are advisory in nature when Community Preservation Act funds are sought, and requesting funds for electronic voting devices in the fiscal year 2018 budget.

Item 6 – Discuss Guidelines to be Used for Small Cell Antennae on Utility Poles

Mr. Harrity explained that the initial process of establishing guidelines is to help shape how the Selectmen examine and discuss these types of petitions, as well as forcing the carriers to think more about what is physically being added to the Town. He provided an outline of the guidelines (attached) and reviewed the three key points: to prevent “creep” of larger equipment being installed by defining dimensions of small cell antennas; define the “Grant of Location” process; and describe aesthetic and installation guidelines. Mr. Harrity added to the list the allowance for the Town’s rescission and inspection rights. Mr. Houston said a balance needs to be struck because the poor cell coverage in Town does need to be addressed. The Selectmen further discussed the outline of guidelines with members in the audience, and requested Town Counsel to review in time for Verizon Wireless to comment prior to the continued hearing on January 25th. Mr. Daniel Klasnick, outside counsel for Verizon Wireless, said he had some concerns with what is in the outline, as some points go against what he has presented and explained in previous meetings. He also said the installations that have been petitioned are in the public right of way, which is not held to the Scenic Road By-law. Mr. Houston asked Mr. Klasnick if there was enough time for his team to review the guidelines and provide additional information, particularly with mapping the additional coverage the antennas would provide. Mr. Klasnick said it would be difficult to

map with specificity due to the function of the modeling tools but his engineers could indicate the added service benefit.

Item 7 – Consider Comments to MassHousing on 104 Boston Post Road Development

The Selectmen reviewed a draft letter prepared by Town Counsel, which outlines the Selectmen’s request to Mass Housing to deny the developer’s submitted project eligibility letter due to several problematic site issues that include traffic, stormwater, and environmental issues.

MOTION: Mr. Gillespie moved to authorize Mr. Harrity to work with Ms. VanderClock and Town Counsel to revise the letter to Mass Housing with comments on the proposed housing development at 104 Boston Post Road as discussed, and further to authorize Mr. Harrity to sign the letter on behalf of the Selectmen. 2nd by Mr. Houston. Ms. VanderClock asked if the Selectmen could also authorize Mr. Harrity to work on and sign the comment letter to Mass Housing for the Boston Properties application for the development at 133 Boston Post Road, which is due before the next Selectmen meeting. So moved by Mr. Gillespie and seconded by Mr. Houston. **Approved unanimously.**

Ms. Leslie Glynn of Merriam Street asked if the Selectmen could use both developments to whittle down the number of units in each area in order to reduce the initial impact of a large-scale development but still help the Town achieve safe harbor. Mr. Harrity explained that in each case there is an economy of scale in the building operation that dictates the number of units. Ms. Glynn asked if they could keep asking to help ameliorate the scale of the developments. Mr. Houston said the Board is denying the project as proposed and the density is a concern. Mr. Jim Polando of Merriam Street asked that the comments be tempered so as not to imply the Town is against affordable housing.

Item 8 – Review Financial Reserve Policy

Mr. Houston asked to review this policy, which was developed by the Finance Committee in 2006 and reviewed last year. Mr. Houston wanted to discuss contributions to the various funds. Ms. VanderClock said the Government Finance Officers Association stipulates 5-15 percent be set aside in the reserves, but Weston is different because reserves are broken out among different funds, which stems from a study that was conducted to examine the Town’s need. After a short discussion, the Selectmen decided to review the policy again at a later meeting and in the context of the budget. The recommended fiscal year 2018 operating budget will be received at the next Selectmen meeting.

Item 9 – New Public Records Law: Appoint Records Access Officers

Lisa Yanakakis, Assistant Town Manager/HR Director

The new public records law, which took effect on January 1st, is mandating changes to how a municipality processes public records requests. The new law requires each municipality to designate one or more Records Access Officers (RAO), with the default primary being the Town Clerk due to the job responsibility. Other staff members can also be designated as primary and secondary RAOs. Ms. Yanakakis recommends the Selectmen appoint her and the Assistant School Superintendent/Finance and Operations to serve as secondary RAOs.

MOTION: Mr. Harrity moved to appoint the Assistant Town Manager/HR Director and the Assistant School Superintendent/Finance and Operations as secondary RAOs. 2nd by Mr. Gillespie. **Approved unanimously**

Item 10 – Affordable Housing Trust: Re-vote Susan Haber and Kenneth Newberg Appointments and Appoint Doug Gillespie to the Trust; Dissolve Housing Partnership

At the December 7th meeting, appointments were made to the re-formed Affordable Housing Trust with exception for the Selectmen’s representative; however it was later realized that Susan Haber had been reappointed this past July for a term expiring in 2018. In order to maintain a balance of staggered terms and for Ms. Haber to keep her original term, Mr. Newberg’s term needed to be altered. Also, Mr. Gillespie needs to be reappointed as the representative from the Board of Selectmen. Additionally, since Special Town Meeting approved the bylaw amendment for the Community Preservation Committee member to be a representative from the Trust rather than the Housing Partnership, so the Partnership can now be officially dissolved.

MOTION: Mr. Harrity moved to appoint Susan Haber to the Affordable Housing Trust for a term expiring June 30, 2018; and Kenneth Newberg for a term expiring June 30, 2017. Further move to appoint Douglas P. Gillespie as the representative from the Board of Selectmen for a term expiring June 30, 2018. Further move to dissolve the Housing Partnership, with thanks. 2nd by Mr. Gillespie. **Approved unanimously**

Consent Agenda

MOTION: Mr. Gillespie moved to approve the consent agenda as follows:

Approve minutes from the following Board of Selectmen’s meeting: November 15, 2016, November 29, 2016 and December 7, 2016 Regular Meetings; September 29, 2016 and December 7, 2016 Executive Sessions

Reappoint Thomas E. Cullen as Director of the Department of Public Works for a three year term expiring February 3, 2017.

As the Licensing Authority for the Town of Weston, approve a request for a 2017 License to Dispense Food and Beverages, issued under the provisions of M.G.L. Chapter 140, Section 21E, from The Hazel Hotchkiss Wightman Tennis Center and the following requests for a 2017 Common Victualler’s License, issued under the provisions of M.G.L. Chapter 140, Section 2, from LeDuff America d/b/a Bruegger’s Bagel Bakery; DiDi Kendall Square LLC d/b/a Dumpling Daughter; Carroll Holdings, Inc. d/b/a Off Center; Ye Olde Cottage Restaurant; MOTAB LLC d/b/a Theo’s Pizzeria and Grill; David Gray Associates, Inc d/b/a Cedar Hill Dairy Joy, and Roche Bros. Supermarkets Co. d/b/a Brother’s Marketplace.

Approve a request from the Weston Fire Department to accept a gift of \$250 from the Rome Family and \$1,000 from the Gazzola Family, both to be applied to the department’s miscellaneous account.

Approve a request from the Town Manager’s Office to accept a gift of \$680 from the Rotary Club of Weston and Wayland to be applied to the cost of the most recently purchased American flag.

Approve a request from the Council on Aging to accept several donations totaling \$2,430.50 to be applied to the Miscellaneous Gift Account.

Designate the Town Manager to be Weston’s Voting Delegate for MMA and MIIA Annual Meetings. Sign Agreement with AFSCME Council 93, Weston DPW Union for the period July 1, 2016 to June 30, 2019.

2nd by Mr. Harrity. **Approved unanimously**

Item 11 – Executive Session: Exemption 3 – Litigation I the Matter of Silver Hill Group v. Zoning Board of Appeals; Exemption 6 – Value of Property at 41 Ripley Lane

Mr. Gillespie moved that the Board of Selectmen vote to go into executive session for the following purpose(s): Exemption 3: to discuss strategy with respect to litigation in the matter of Silver Hill Group v. ZBA; and Exemption 6: to discuss the value of property at 41 Ripley Lane. Mr. Houston declared that an open meeting will have a detrimental effect on the litigating and negotiating position of the Board. And further, that the Board will not resume in open session.

Roll Call Vote: Mr. Harrity, Mr. Gillespie and Mr. Houston all voted in the affirmative

Meeting adjourned: 10:25 p.m.

Douglas P. Gillespie
Clerk

Note: A copy of all documents, explanatory material, and exhibits presented to and used by the Board of Selectmen as part of this meeting are attached to the approved minutes.