



Town of West Newbury
Board of Selectmen
Monday, June 15, 2020
381 Main Street, Town Office Building
www.wnewbury.org

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
JUL -7 PM 2:32

Minutes of Meeting

Open Session: 4:44 p.m. by remote participation (see below)

Addendum to Meeting Notice regarding Remote Participation

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 23, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the West Newbury Board of Selectmen will be conducted via remote participation to the greatest extent possible.

Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at www.wnewbury.org. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner:

GoToMeeting

Phone: (872) 240-3212

Access Code: 767-572-605

Or, from computer, tablet or smartphone: <https://global.gotomeeting.com/join/350521085>

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.

The meeting was called to order at 4:44 p.m. by Chairman David Archibald.

Participation at the Meeting:

- ❖ Board of Selectmen: David Archibald, Richard Parker and Glenn Kemper
- ❖ Town Manager, Angus Jennings
- ❖ Town Clerk/Counsel & Procurement Officer, Michael McCarron
- ❖ Assistant to Town Manager and Finance Department, Jennifer Walsh
- ❖ Moderator KC Swallow
- ❖ Adam Stone
- ❖ Chief of Police Jeff Durand

Announcements:

- This meeting is being broadcast on local cable TV and recorded for rebroadcast on the local cable channels and on the internet. Meeting also accessible by remote participation.
- With all that's been going on in the United States and in the world recently, thought it would be worthwhile to briefly have the Chief of Police discuss the protocols for use of force by the Police Department. Intended to be strictly informational and not long. Chief will go over things and everyone can learn.
- If people feel they would like to comment, it can be done at another time. Just added at the last minute at the last meeting, so not prepared to get into a discussion, but felt it was important enough to add it onto a meeting that was already an emergency meeting.

REGULAR AGENDA

A. Statement by Chief of Police Jeff Durand:

Chief Durand stated that obviously, this has been a situation in the United States that has a lot of attention drawn. Wants to go over some of the Department's policies:

A state accredited department. All of the policies and procedures used have been gone through with a fine-tooth comb, scrutinized, and they're best practices any accredited or certified police department uses very similar policies.

They train firearms twice a year, and during that training, they also cover their use of force policy. During defensive tactics, also trained once a year, they also go over the use of force policies. The major thing that the officers are trained is to deescalate situations. You don't want to have to use force. Our goal is, if we have to make an arrest, to be able to do so without any issues.

All officers are familiar with and sign off on the policies. They have very few use of force reports yearly on the Department.

As an example of some use of force, they've had an intoxicated individual who attempted to jump off the Rocks Village Bridge and officers had to go hands-on with that individual to prevent that. It was reported as a use of force. Also had one taser deployment, and since they've had the tasers, they've had one pepper spray deployment in the last ten years.

Almost all arrests aren't an issue. The officers are all trained multiple times yearly on deescalating situations and having people become compliant with an arrest situation.

Town Manager Angus Jennings has given everyone copies of the policies and procedures. Asked if anyone had a specific question regarding the policies.

Chairman David Archibald stated that upon reading the policies and procedures, he didn't get a clear feeling for if an officer is by themselves, what is the situation regarding escalating the force, but to just wait for assistance of another officer, how does that play out. Chief Durand stated that in a situation where an officer is working alone or at a call first and is alone without a back-up officer, if circumstances dictate and can deescalate and wait for back-up, that's the plan. Don't want an officer using anymore force than necessary just because they are alone.

Selectman Glenn Kemper suggested that there have been situations in the past that it was made sure that if it was a situation where he felt needed back-up, made sure everyone was safe and secure, but waited for back-up to be able to proceed with the arrest because he understood the circumstances where other people might be needed. Asked if those are the types of things that are still used with this police force.

Chief Durand stated that the officers are trained to deescalate, try to control the situation, request back-up if needed, and if it's possible to wait for back-up to arrive, that's what they do.

Chairman Archibald had a question with regard to going over procedures. Wanted to know if officers are required to go over the procedures and sign it that they understand it, or how does it work. Chief Durand stated that as they were going through the accreditation process, as policies and procedures that the department adopted were coming out, all officers are required to read and sign off on each individual policy that they understand it.

Selectman Glenn Kemper wanted to know with regards to the policies and procedures, if the officers are trained again and reviewed three times a year, but wanted to make sure if there is a process involved with some ownership of them by signing them. Selectman Richard Parker asked if the policies and information provided to Town Manager Angus Jennings are available for public review. Chief Durand stated that they are.

Chairman David Archibald asked, after the incident report is prepared and works its way towards the Chief and he looks it over, then what happens? Is he either satisfied with it or is it given a sort of okay, or not okay? What happens after the review gets to him, what does he do with it. Chief Durand stated that if there's been a use of force, the officers are required to file a separate use of force report and those are investigated by Sergeant Cena at this time.

They go over the incident to make sure the policies were followed and the officers understand the policies. All reports are tracked yearly, and it's been very few. Has a summary of use of force for the years 2017, 2018, and 2019 that's available if anyone would like a copy.

Once change in the use of force of policy, used to report if the officers had to shoot an animal that was hit by a car, etc., but not reported as use of force anymore. So, for those three years, the numbers are skewed. But on average, looks like there were three incidents a year where there was a use of force, but the majority have only been a hands-on situation, only one pepper spray and one taser deployment. Nothing more serious than those.

Selectman Glenn Kemper stated that on the taser incident, that was a person that got pulled over for DWI and got very argumentative. He was on 113 as a gentleman, there were cars going by, he threatened police officers, he had his fists, and they tried everything possible to deescalate the situation and they felt that tasing him just to be able to subdue him because he was out of control on 113 with cars going by, even to try to protect his own life by not getting hit, that's when they made a determination that they should do that. Everything came in and he was able to be

subdued and be processed through the proper channels. Chief Durand stated that that particular party was very combative with the police.

Selectman Glenn Kemper stated that once a report is made up and Sergeant Cena reviews it, what happens if it was found that one of the officers didn't act properly through Sergeant Cena's investigation, what is in place to be able to retrain officers or what happens then? Chief Durand stated that if there was a use of force that wasn't within their policy, then they'd have another situation. Could be as simple as a retraining or could involve something more serious with the officer, such as some type of discipline, but it would depend on the specifics of the situation.

Selectman Richard Parker asked about the availability of the policies, should they go to the Chief? Chief Durand stated that they can contact him directly either by phone call or e-mail and he'll get them a copy of what they want.

Chairman David Archibald asked about this year's training for the officers will be more focused on de-escalation and asked if he could expound on that more. Chief Durand stated that as part of the training this year, they're going to have a class specific to de-escalation. Prior de-escalation has been worked into the different trainings, but this is going to be a class specific to that one topic.

Chairman David Archibald asked who gives that training and Chief Durand stated that the Department will give the training, but almost all of the training that the Department gives to the officers is reviewed and usually put out by the Mass Training Council. They'll give out a syllabus or training information to the training officers and every department gets the same information so it's not something that's homemade in West Newbury, it's put out by the Mass Police Training Committee.

Selectman Glenn Kemper stated that he heard that trainings are reflecting the era and this training is very time sensitive, not just looking through the training manuals and going over the same things done forever, but they are really taking into effect what's going on in the world and speaking to that with good ideas to help the situations that are happening. Chief Durand stated that he's sure that a lot of the trainings coming out are going to be reflective of what's going on in the whole country and the face of policing as we know it is changing and evolving quickly, so he's sure there's going to be a lot of new information and new trainings put out. Selectman Glenn Kemper stated that he's satisfied and he's happy that these are all public information and people can get them.

Selectman Richard Parker stated that he's impressed with the professionalism but wanted to address the realities of the world and asked if there is anything in the existing policies that prohibits the use of choke holds or things like that. Chief Durand stated that there's nothing specific, but they would never train choke holds ever, and you stay away from people's necks and heads. Doesn't think any department trains for choke holds in this area. He stated that they train the officers to stay away from people's necks and in their policy, any use of force, the first thing that happens after is they find out if any medical assistance is needed.

Chief Durand stated that in his 25 years, there's never been anyone that wants to come to work and go out and hurt anybody. Doesn't know of anybody in the area departments, as well. Everybody has their head on straight, trying to do their job the best they can, but once in a while, they'll run into a bad actor and they do their jobs professionally and follow the rules and policies.

Selectman Glenn Kemper asked if it's okay for people to contact him and he stated that it's okay and Chairman David Archibald stated that if anyone wants a copy of the manual, it's available upon request, but Town Manager Angus Jennings suggested that anyone who wants it contact Chief Durand in order to keep bandwidth out of their office and the Chief of Police can send it.

B. Review of Board of Selectman Comments re: 40B:

Chairman David Archibald stated that next is a review of the Board of Selectmen comment that the Town is going to send about the eligibility application of the 40B on Coffin and Main Street. He stated that Town Manager Angus Jennings will provide a brief synopsis of what is actually going to be sent and then everyone can take a quick look at the main cover letter that the Town will be sending, along with the comments that the boards and committees and residents have sent in, which is over 200 comments from people.

Chairman David Archibald stated that they don't know how MassHousing will look at these things but they're going to try to put the most important things in the letters, and also wanted to know if they're going to read all 200 comments, he doesn't know, but they're going to send them anyway.

Town Manager Angus Jennings stated that the Board has in front of them a 7-page transmittal letter that hits on a number of the high points of concerns that the Board has, many of which are also reflected in some of the more than 200 letters that were received from Wet Newbury residents, one letter from someone out of town who is not favorable to the proposal, and also received letters from a number of Town departments, boards, commissions, and committees.

Town Manager Angus Jennings stated that the intent all along is that the Board's letter, while substantive in and of itself, it also serving as a transmittal letter of many other comments, so an overall package would be sent to MassHousing on behalf of the Town.

Town Manager Angus Jennings stated that the draft letter is organized into four sections; comments offered regarding the process, additional comments regarding the Board's substantive review of the proposal, highlights the primary concerns, not the sole concerns but the primary issues that the Board wanted to highlight, and then finishes with some requests and recommendations.

He also said that there are many comments that have come in, many of which the Board members share the concerns, but that are not addressed in great detail in the letter because based on their understanding of the process with MassHousing, tried to focus comments on issues that are going to be most salient to MassHousing in their review of the application for project eligibility and site approval that is pending before MassHousing. There are certain issues that rise to a level that we feel are highly relevant to MassHousing at this stage, there are other issues closer to the ground that are certainly important to the Town, but that they know from experience and direction received from MassHousing, in their view are more appropriate to address is a local permitting process.

Selectman Glenn Kemper asked Town Manager Angus Jennings if he could give some examples of that because he and Rick were on a phone call that outlined those things, it might be helpful for everyone. Town Manager Angus Jennings stated that a couple of examples would be the issue of school capacity is a non-issue, not something that MassHousing is concerned about at

all, and if we did include concerns like that, he thinks it's better to keep the letter focused on the issues that are going to be potentially received on the other end.

Selectman Richard Parker stated that he feels that it would water down the message of the issue of substance to include things that they don't consider to be of substance.

Town Manager Angus Jennings stated that when he says that, this isn't just a matter of the current people in the agency, this is a matter of years or a decade or more of caselaw that in some instances has established very clearly that certain issues are out of balance in the 40B process in terms of a basis for local disapproval. Doesn't mean the Town needs to ignore these issues or that the Town is ignoring these issues, what it means is that we need to choose our opportunity to address them.

Another example would be the issue of the lack of sidewalks between the site and the Town Center. That can certainly be stated and is stated in terms of illustrating the case that the site is not in any way a pedestrian oriented site, and that representations to the contrary are not correct. That's fine to say, but MassHousing is not going to require that sidewalks be put between the site and the Town Center, just not going to happen.

The Board's letter is intended to be focused, but then would attach hundreds of pages of additional comments, so all would be provided to MassHousing.

Chairman David Archibald suggested that in the interest of time, he thinks it would be worthwhile to inform people that are listening that – go with our primary concerns. He thinks it's worthwhile that at the moment, these are the things that will be pertinent to what MassHousing is interested in at the moment, would have an effect on them, and what the Board has labeled as their primary concerns.

Chairman David Archibald stated that the first item labeled one of the primary concerns is the large project threshold. He stated that a project can be disqualified if it is going to be creating more units. Because of the size of the Town, it depends on Town size, but if it's creating more than 6% of the existing housing units, and because the census is taking place in 2020, but it isn't finished yet, the number that would be used is the number of housing units in West Newbury as of the 2010 census, because the 2020 census isn't complete at the moment, so that lowers the threshold.

So, if we are using the number of 1,558 as the housing units present in West Newbury in 2010, 6% of that is 93 units, and this particular project is over that threshold by 63% as it presently is being applied for. So, that is a strong factor in being a disqualification for a project of this size. It's possible that in some towns, some project would want to have more than the allowed, so it's not immediately a disqualifier because there might be situations where a municipality would want more than the threshold number, but in this case, they're feeling that this is a big issue.

Selectman Glenn Kemper asked whether if by law they can't have anymore than 93, that's a non-starter, so this is over, so how true is that, how stringent do they go by their own laws and policies? If someone listening saying okay, they can't do it, it's a large thing, we have 1,600, they can't have the 6% of that, so it's a non-starter, so it's all over with. Do we hang our hat on that or how realistic is that and/or are there ways to get around it, etc.

Town Manager Angus Jennings stated that it is absolute. It's very clear in the regulations, and in consultation with both in-house counsel and outside counsel, it's very clear the 40B regulations establish this large project threshold, and what it means is that if an application comes in above that threshold, it means that the Board of Appeals may use that as a basis to deny the project, and that denial would not have the avenue of appeal that it otherwise would. It does not mean that an applicant cannot apply above that threshold, so it doesn't mean that they can't propose it at that level.

In the Board's letter to MassHousing, it does take the step of urging that MassHousing not issue the project eligibility site approval letter in part for that reason, and perhaps that's how it will go. If you look at the track record of these things, there's certainly a chance that MassHousing would issue a project eligibility site approval letter despite the fact that the proposal is so far above the large project threshold.

One of the stronger points made here is the developer has represented a number of times that the proposed unit count is what he feels is needed to make the development of the site economically feasible. That would seem to be squarely at odds with the restriction within 40B that the conditions of approval can't render a project uneconomic. What the applicant himself is representing is that the proposal that he has brought forward is necessary for it to be economic, and yet, it's way above the threshold.

So, it would appear, as Glenn stated, that this is not a viable proposal, but that doesn't mean MassHousing can't issue their letter, and it doesn't mean that the applicant can't bring forward an application.

Selectman Glenn Kemper stated that was extremely helpful, especially when it was expounded regarding the Board of Appeals, when it gets to them and them denying it, then there is no appeal process because they did not go over that threshold.

Chairman David Archibald asked Town Manager Angus Jennings to talk about the water supply part of it. Town Manager Angus Jennings stated that this was highlighted as the second primary concern the Board is raising, and the first thing on the issue of water supply is, there's a lack of information to work with. The Water Department had put a request out for additional information on the anticipated water supply needs of the development back in late April, and to date, has not received the information it needs to conduct a thorough review.

With that said, we are not at the permitting stage yet, so the deep dive review that the Water Department will conduct would occur at the comprehensive permit process, but even just settling on what are the usage demands, the data is not available.

The second thing is, we're limited under the Town's Water Management Act permit to a certain volume of water that we're authorized to pump out of our watershed, and in order to supply the water needs of the proposed development, based on the assumptions that the Water Department is making, would simply exceed what we would be allowed to draw. So, what that means is, the Town would have no choice but to purchase more water from Newburyport, which we do purchase every year, and this would drive up that amount.

So, we wanted to make sure that MassHousing is clearly aware that the water needs of the proposal exceed those that were authorized by permit to provide. So, one of the requests that's

made later in the letter is that MassHousing would require the applicant to provide the information necessary for the Water Department to do a more thorough review.

Chairman David Archibald stated that the final primary concern that we wanted to have MassHousing take a look at was the yield plan, and if Town Manager Angus Jennings could talk about that.

Town Manager Angus Jennings stated that the yield plan came up in a number of comments, and the Planning Board did a nice job in its analysis. The application submitted by the developer to MassHousing includes a so-called "As of Right Plan," or a "Yield Plan," and our review collectively between the Planning Board, Conservation Commission, Health Agent, who over the years has witnessed many perk tests on the site, look at that yield plan and are very skeptical to say the least.

And there's also an appraisal that was done about 5 or 6 years ago that had its own finding based on the development potential of the site. The yield plan greatly overstates the underlying development potential of the property, and that's concerning for a couple of reasons. For one thing, it's indicative of a concern throughout many parts of the materials the applicant submitted, there's questions as to how reliable or accurate that information is, so that's a concern.

But on a yield plan specifically, if that's being represented as the underlying development potential, if that is not rebutted early, which is what we're trying to do, that could skew MassHousing's understanding of the underlying land value, and that could flow through the development pro-forma if the land is essentially overinflated, or the value is overinflated, that could and would, in fact, have an effect on what is determined to make the project uneconomic.

So, it was important to make that one of the key points, is that we believe that this yield plan significantly overstates what could be done on the site and the underlying zoning, and it requests that MassHousing require the applicant to respond to those concerns prior to its issuance of any determination.

Chairman David Archibald stated there are a lot of other topics that have been addressed in the cover letter and certainly address in even more detail from individual correspondence and reports from Town boards and committees. Obviously, in the interest of time, we can't get into all of those, but if any of the people listening have any individual concerns, we'll certainly hear anyone's questions, or on the chart, if anyone has a question of have we addressed certain things, they're more than welcome to ask right now.

Jean Lambert commented that Town Manager Angus Jennings has told her that this will be made into a public document and wants to know if the document sent also strongly urge MassHousing to take a look at what the various boards and committees have given them for comments. She knows that on the Open Space Committee, they spend a very long time looking at the wetlands issue and some of the other concerns within their purview, and they know that the Planning Board did an excellent job on all of the amazingly steep slopes there. So, she would hope that MassHousing would be urged to get a complete understanding by looking at all the documents, or at least the boards and committees, and wonders if that's possible.

Selectman Glenn Kemper stated that we can bring the horse to water but we can't make them drink, and that Town Manager Angus Jennings made a comment earlier about how well the Planning Board and the Open Space and other committees how well and hard they worked on

those letters, and stated that they will definitely be highlighted, but we only can present it to them, we can't make them do anything.

Jean Lambert stated that she understands that, but she was hoping that there was a place in the letter where they could be urged to do this, because she knows that the Board of Selectman has done an amazing job getting all of the comments together, and she thanks everyone, but if they could be strongly urged to consult the other documents, that might be helpful, too, and hopefully, all the comments that people have sent in because the themes keep recurring.

Selectman Richard Parker stated that in the call that Town Manager Angus Jennings and he sat in on with MassHousing, they were told that all material would be reviewed, and we of course would lead with the letter from the Board of Selectmen, but following that will be emphasized committee comments in front of all other comments. So, that's going to be the first thing they look at after they read the letter from the Board of Selectmen and Town Manager.

Chairman David Archibald stated that he wasn't on the call, but asked who actually is looking at this? Selectman Richard Parker stated that he believes the people who are looking at it are the people who they're speaking with, are part of the team, but he doesn't know exactly who all the people are, but he's pretty confident that two of the people reviewing this were on the phone call with them.

Selectman Glenn Kemper asked how long the process of reviewing going to take months, years, weeks? Selectman Richard Parker stated that 30 to 60 days is what they estimated, but Town Manager Angus Jennings stated that he believes it's 60 to 90 days. Should assume 30 to 60 days just to be conservative, but 60 to 90 is a realistic timeline, and it could also take longer than that.

Chairman David Archibald asked, for timeline thinking, just for the fact that they do issue a decision that it is eligible, when would we have to then contact them to get the consulting money allowed from MassHousing, and when would we be able to go after the money that is available from the developer. What is the timeframe related to that?

Town Manager Angus Jennings stated that the Town would be eligible to apply for a technical assistance grant from MassHousing Partnership, and it gets a little confusing because we're talking about MassHousing, but the MassHousing that issues the project eligibility letter is MassHousing Finance Agency, MassHousing Partnership is different, they're both often referred to as MassHousing, so it's confusing.

So, the technical assistance would be from MassHousing Partnership, and we would not be eligible until a comprehensive permit is actually filed locally. Were in touch with that office several months ago and we're on their list and they've indicated we'll get the grant money when the time comes.

Chairman David Archibald commented that that's not a complicated or lengthy process and Town Manager Angus Jennings stated that no, not at all, it's intended to help in particular smaller towns with limited staff, so they want to get that money to us so a consultant can be hired.

Chairman David Archibald asked about what kind of money is being talked about so people can understand how it works. Town Manager Angus Jennings stated \$15,000, and that's to hire a consultant. He was asked how far he thinks that \$15,000 will go, and he stated that the \$15,000,

you're limited to hire a consultant on the list of MassHousing Partnership's list of pre-qualified vendors. So, they've already selected vendors that are on their list and you've got to stay on the list.

The scope of work is going to be what MassHousing Partnership wants it to be, which is basically someone to do some hand-holding with the Board of Appeals, to attend the hearings to make sure that the Board of Appeals is running the hearing in a manner that's consistent with the State regulations, and part of their scope can include assistance in drafting a decision. He's not sure that we would need that in our case, because we have a good team.

But they're there to make sure the process is handled in accordance with regulations. A lot of it is not going to be really responsive to some of the concerns that we're hearing, and that's where Chairman David Archibald's other question about the other funds and what the developer puts up.

And once a comprehensive permit is filed with the Board of Appeals, the Board of Appeals can set out what it feels it needs in order to undertake its review in accordance with its responsibilities, and so, it can define the third-party reviews or peer reviews of the developer's materials that it, the Board of Appeals, feels is necessary, and those costs are borne by the applicant, who then puts those funds in escrow. Once the funds are put in escrow, the Town manages the fund, so the Town then hires its own consultants to conduct whatever studies the Board of Appeals needs to do its job, whether it's wetlands, environmental, storm water, civil.

Selectman Glenn Kemper asked if there is a ceiling on those funds and Town Manager Angus Jennings stated that there is not. Selectman Glenn Kemper asked if the Board of Appeals comes up with a list that adds up to \$500,000, could it be that, or if the list is \$27,000, it could be that.

Town Manager Angus Jennings stated that's right, but what John Witten advised us at one session, but he did remind that all of those costs flow to the bottom line of the developer's pro-forma, and he was explicit that there's no cap on what you can require, but you want to ask for what you need and not do studies just for the sake of doing studies, not to say anyone would, because that is all going to come out of the development's costs, and when you get into the later stages of determining whether certain conditions of permit may require the project uneconomic, if the applicant is carrying an additional six figure amount because of the peer review costs, that's all going to at least in theory reduce the Town's ability to negotiate conditions that make the project more palatable.

Town Manager Angus Jennings stated that the most important point to take away on the 53G account is that the Board of Appeals is fully empowered to require the number and type of reviews that it deems necessary to complete its review. Selectman Glenn Kemper asked if they're not restricted about the list people, they can pick whom they want? Town Manager Angus Jennings replied that that's correct. The developer, under State Statute 53G, the only basis that an applicant can contest a consultant selection is either if the consultant is demonstrably unqualified to do the work that they're hired to do, or if the consultant has a material conflict of interest and is therefore ineligible to do the work.

Chairman David Archibald stated that MassHousing is going to get our comments tomorrow, and we don't feel it's appropriate to put the individual comments that the residents sent in because they have contact information and don't want to put that in the public domain, but they do intend to send them without their contact information to MassHousing.

Town Manager Angus Jennings mentioned that there have been requests that the correspondence be made public, and his assumption is that people would want to see those attachments, so his office can redact all personal identifying information.

Selectman Glenn Kemper asked if it needs to be in by tomorrow, that's when the time clock starts, because it's being done electronically, just for people wondering when the 30 to 60 days starts? Town Manager Angus Jennings stated that's correct.

Selectman Glenn Kemper stated that he's happy with the letter the Selectmen drafted, and one thing that Jean Lambert said it was the Selectmen who got all the "thank you for the hard work," and he's going to speak for himself, he didn't do any heavy lifting on this and he wants to thank Town Manager Angus Jennings and his staff for compiling all the stacks of paperwork and getting everybody's things together. He was able to just read everything and appreciate the hard work that was done to get everything ready. He also wants to thank everyone who took the time to submit comments and interaction and agreed with most of them, and seeing individuals getting involved in the process.

Town Manager Angus Jennings stated that the letter will be sent to MassHousing by close of business tomorrow, and it's pretty quick to post things to the website, so if it doesn't get posted by the end of tomorrow, it can definitely get posted on Wednesday, so by the end of the day on Wednesday, everything should be up on the project web page.

C. Town Meeting:

Chairman David Archibald wanted to talk about changing some aspects of the Annual and Special Town Meetings scheduled for Saturday, June 27th.

First off, the legislature has passed and the Governor has signed very recently legislation allowing towns of our size with open Town Meetings to reduce the quorums of Town Meeting for the specific purpose of allowing greater social distancing, smaller meeting size, all to reduce the chances of spreading COVID-19.

The details are that the legislation allows the quorums to be reduced to as little as 10% of the existing quorum, so in our case, that could lower the quorum from 90 people on large items that require a 90 person quorum down to 9 people. And just personally speaking, he doesn't want it to be a 9-person thing. He feels that perhaps they may want to reduce a quorum, but he certainly doesn't want to go there.

Moderator KC Swallow stated that just because you can reduce the quorum to only 10% of the existing quorum doesn't mean that's the only reduction you can make. You can make it up to that, so you could make it half or three quarters. It doesn't have to be 9 people.

Because our meeting is on June 27th and the fiscal year is on June 30th and we don't have any idea how many people will be attending the Town Meeting, she thinks it's wise to lower the quorum to maybe 40, which is the quorum if there are no big money items, just to be on the safe side. That does not mean that we're going to throw people out because there are already 40 people there. Everyone who wishes to attend the meeting and is a voter can come.

There was actually a news item this morning on the radio that the meetings that have already been held under these unusual circumstances have had larger than usual attendance and people seem to be coming and how are we going to handle all this. Chances are, we won't have that problem, but if we do, then you have no budget. So, this is just a way to make sure that we can have the meeting. She thinks she would be amazed if we didn't have at least 40 or 50 people there and we will probably have more than 90, but this is just a way to sort of ensure that we can have the meeting, get the budget passed, get the important financial items passed, and get that done.

Town Clerk Michael McCarron said he agreed and one point he'd like to make is that because the statute required a 7-day notice before the Board can vote, you really have to make your determination at the next meeting because the notices were posted last week. So, this will be on the agenda a week from now and that's the time that a decision can be made. Obviously, we can talk about it now, but you're going to have to talk about it again next week.

Selectman Glenn Kemper stated that he thinks that was our intention was to send the notice out, have a good discussion tonight, so we have plenty of time to discuss it and answer questions if there were any, and then make the final decision next week.

Selectman Richard Parker asked, if we reduce to 40 people, how much – there's a dollar limit beyond which we can't go to vote? What is that limit, and is that threshold that 40 people, so if we have 40 people are we then not limited in dollar amounts or is there some limitation?

Town Clerk Michael McCarron stated that the rule is, for the Annual Town Meeting, you need 90 for everything at the Annual Town Meeting. For a Special Town Meeting, you need 40 for expenditures \$20,000 or less, but if you have an expenditure over \$20,000, you need a 90 quorum for a Special Town Meeting. So, effectively, because we have the annual on, the quorum right now is 90.

Selectman Glenn Kemper stated that it's just basic. Whatever is on the Annual Town Meeting, we need a quorum of 90, there are no differentiations about money, only on the special, and that's why we have those thresholds. Selectman Richard Parker asked, if we reduce the quorum to 40 people as KC has suggested as a possible number, is there a limitation for no article greater than \$20,000.

Moderator KC Swallow stated that her understanding is that this is a one-time deal because of COVID-19, that the state has allowed the Boards of Selectmen of the towns holding open town meetings to lower the quorum so that they can have the Town Meeting. She has not seen anything that directly addresses the question, because have a bylaw that says that we have to have a quorum of 90 for anything over \$20,000, which is in the bylaws and not in the state statutes. She has not seen that particular question addressed. She will look into it before next week so that she can answer the question, but she doesn't really know if the state legislation that enables this reduction of quorum then supersedes any town bylaws.

Town Clerk Michael McCarron stated that it does. Chairman David Archibald stated the point is that it can't then say you still have to have 90 for the rest of the meeting, which wouldn't make sense. Selectman Glenn Kemper stated that an Annual Town Meeting is different from a Special Town Meeting. Just because you're having an Annual Town Meeting in the spring doesn't mean that towns have Special Town Meetings, they do, but they don't have to.

Town Clerk Michael McCarron stated that the legislation says any Town Meeting, and that includes Annual and Specials. You will literally have to take three votes next week. One is to address the quorum for the Annual, and the second would be to address the quorum for the first special, and the third would be the quorum for the second special, so three separate decisions of the Board as to the quorum requirements for the upcoming Town Meeting.

Selectman Glenn Kemper stated that he would take KC's recommending being that to bring it down to 40 – doesn't agree with bringing it down to 9 – but KC, it's a game time decision and she's not going to start it with 40. In her mind, she wants as many people there as possible, and the most representation, so if we have that in our head but have it in our back pocket that they can still do town business only with 40, that's the best of both worlds.

Moderator KC Swallow stated that she agrees with that. She does not think that there will be a problem. She feels that people will come. She also stated that Concord has no quorum and they had a record turnout at their meeting. It's kind an interesting dynamic what's going on with all of this. Selectman Glenn Kemper added that he thinks that people want to get out and are going to be interested in what this is all about, not going to be boring.

Moderator KC Swallow stated that it concerns everyone and all of the moderators have discussed this, that the attendance at Town Meetings is skewed toward older people, and it is in all the towns and it is in West Newbury, as well. We do have more senior citizens than young people in general attending the Town Meetings and the senior citizens are the ones who are in a high risk group, so if they feel like they shouldn't come because they're in a high risk group, then there could be a problem with the quorum, and that's what she's concerned about. She thinks we'll have a good turnout and exceed the quorum, but on the off chance that exercising caution people decide not to come, this gives us the ability to have the meeting.

Chairman David Archibald asked Moderator KC Swallow if she thinks 40 is too low because he was thinking more like 50. She said there's nothing sacred about 40, that's just the other number that's in the bylaw which for a special town meeting with no item over \$20,000, they could have the meeting with, so it's something that people might be familiar with. 50 is fine with her, but she just thinks we need some lower number to ensure that the meeting can be held.

Selectman Richard Parker stated that he was thinking 50 people before, but after listening to what KC said and just realizing that there's already precedent for 40 being a quorum for a Town Meeting, for a Special Town Meeting and not the Annual Town Meeting, 40 seems like a reasonable number. Thinks we're going to have more than that, maybe beat 90 people, and people are going to find it a novelty to go to an outdoor town meeting on a Saturday, but he thinks 40 is a reasonable number since we have a precedent.

Chairman David Archibald stated that he agreed with that and asked everyone to state that they were in agreement. Selectman Glenn Kemper is also in agreement, with the understanding that we're not going to start the meeting at 40, this is a safety net to get done with Town Meeting.

Moderator KC Swallow commented that you call the meeting for 10:00, and there has been grumbling in the past when we used to have trouble getting a quorum so the meeting didn't start, and she'll be asking people to please come early because registration could take longer because of the lines and social distancing and seating, and hopefully people will come earlier than 10:00, but she believes by 10:00, we will know if there will be trouble with the quorum or whether people attend and there will be a normal meeting. If there aren't 30 people there at 10:00, you

can't open the meeting, but if there are 40 people there and there are clearly more people coming, then the meeting can be opened.

The problem with that is, the very first thing taken up is the line item budget from the Annual Town Meeting and that's not something that most people are interested in, but they'll have to see how things go on that day and if there's going to be a problem.

Chairman David Archibald asked what kind of public notice has to be put up. Town Clerk Michael McCarron stated that it's already done, the notice has been – the DLS has given us advice as to what should be done, and it was posted on the website, posted on our Facebook account, with the Town Warrants last week in those places, and in the Open Meeting section, so we've complied with the notice of the consideration to lower it, and decision has to be made on next Monday. Once you do that, then he sends a notification to the Attorney General that they have lowered the quorum for these town meetings, and he'll prepare a vote for everyone to sign for next week.

Town Manager Angus Jennings stated that he wanted to talk about a virtual meeting or online forum, which KC recommended and is a good idea, having a virtual meeting prior to Town Meeting to give people a forum to ask questions about the budget or about articles.

Selectman Glenn Kemper asks Moderator KC Swallow if there are any provisions of trying to streamline registration, can't be done beforehand? Moderator KC Swallow explained that it could have been talked about at a previous meeting, but is too close to the meeting to start thinking about doing something that different, but Mike has the new legislation and we have three entries planned at the venue, so that people can go to anyone of the entries because they don't have to register by where you live, you just go up and register, and things have already been streamlined.

Selectman Glenn Kemper suggested that it might be good to tell people when registration will start. Town Clerk Michael McCarron stated that we should have two registrars there at 9:00 with the I-Pad and registration is quick, don't have to line up by your street, can go to either one, going to have two separate tables so that there's more social distancing, and voters can go to either one, it's very quick and will be able to get people in and registered right away.

Selectman Richard Parker asked if the Pads require wifi, and Town Clerk Michael McCarron stated that they do not require wifi to operate, but they do use wifi to download the materials afterwards, but they can operate independently and they talk to each other. They're bluetooth connected so that he knows that they will keep a count on both of them, so you can ask either one of them what's the total number of people put in and they will sync with the other I-Pad and they know who is already checked in.

Chairman David Archibald stated to get back to a pre-Town Meeting meeting. Town Manager Angus Jennings stated that he was able to get confirmation earlier today that the Fin Com is happy to be represented, the Board of Selectmen, as well, himself, Town Clerk, Michael McCarron, and KC were also available next Tuesday evening, June 23rd, so while we haven't formalized or announced that, that's going to be the evening, so we're going to look to pin down a time tomorrow, heavily promote it, get the word out that it will take place, and it will be intended as an open forum for people to ask whatever questions they may have about the articles or the proposed operating budget.

Chairman David Archibald asked, so for example, anyone that has a question about the band stand line item, ask it Tuesday night, don't ask it at the Town Meeting? Moderator KC Swallow stated, correct. One of the problems with organizing these outdoor town meetings is that someone asks a question, then find someone to answer it, move microphones, and we don't have the luxury of doing all that in the field, so it would really slow things down considerably and increase the contact between people.

So, the idea is to have everyone who has questions about anything to be able to ask them up front so that we can get those taken care of. At the meeting itself, what some moderators have done and she thinks is wise, the microphones are available for people who want to make a statement, debate, discuss an article, but they're not available for questions, if you just want some information. So, what they've done is have runners – you have to write your question down on a piece of paper and submit it to the moderator, so there's none of this going back and forth to the microphone three times because you have a question about something.

So, we can do that and hope that people will attend the open forum, ask as many questions as they can, and we can also provide e-mail addresses or phone numbers if you didn't make it to the meeting but you have a question, please call this person. But the idea is to minimize the number of people who just have an informational question to ask. This isn't people who want to make their statement by saying, "Well, I have a question," and then it's Perry Mason.

She's talking about people who really want information and need to get it before they know how they want to vote. So, she thinks that this pre Town Meeting forum is very important to try to clear up any kinds of questions people have, and then she hopes that we can post the questions on the website or whatever so that other people who didn't attend can see what the answers were and try to minimize this kind of informational aspect of the meeting.

Chairman David Archibald stated that he thinks it's a great idea and asks how do we keep it to question and answer and not opinion? Maybe the Selectmen shouldn't be part of it and more should be KC, Angus, and Mike, just answering questions since they have all of the backup material from the commissions and department heads, etc. Selectmen can listen in, but to try to keep it really streamlined, more of an informational thing and not opinion.

Moderator KC Swallow stated that the Selectmen sort of monitor themselves, because she knows they have opinions on these things and so does she, but this is not that type of forum. She thinks the three Selectmen are completely capable of limiting their answers to informational answers and not expounding on their opinion with it.

Chairman David Archibald stated that they're going to have some new people related to the 40B that have never been to Town Meeting before, and at this Tuesday night training session, is there something she could put together to give to people so they would know what is going on so she doesn't have to give it at the actual Town Meeting? She said she will put something together. It's a good point because there are lots of people interested in the Second Special Town Meeting who have not ever been to a Town Meeting before or very seldom and really do not understand how it works at all, so she will put together an introductory talk about how Town Meeting works.

The other thing is that if people really don't understand Town Meeting and they're going to be there because they have a really strong interest in the 40B project, they're free to call her anytime and get more information about how Town Meeting works, because that is the key to having things move smoothly, that people understand that this is not a debate, this is not an open forum,

this is the legislative branch of the government and there are ways that we conduct our business, and that's the way it's got to be.

Chairman David Archibald suggested that when she puts that thing together, what about sending it to the people who passed around the petition, who must have an e-mail list, and then they could send it out to the people that would be interested on the 40B. 350-something people signed it and they must have an e-mail list of 100 or so, send it to that key person and then they can disseminate that throughout their channels, and if somebody has a question to give her a call. She thinks that's fine and she will put something together as soon as she can and she will send it to Town Manager Angus Jennings for feedback and then to the appropriate person who is organizing the 40B contingent.

She also thinks that this is a good point that Glenn is making, that Town Meeting is this rather strange kind of government that we have here, that a lot of people who haven't grown up with it, of which she is one, and have not participated over the years really don't understand how important it is, that it really is the legislative branch of the government and it has rules, and there's ways that things have to be done. And she's not trying to be mean or heavy-handed, but this is the way it has to be done.

Selectman Richard Parker asked about how the Tuesday meeting next week is going to be run, because if there's 15 people it's one thing, if it's 150 people, it's something totally different, so how do we keep it from being some variation on the Tower of Babel?

Moderator KC Swallow stated that she's going to assume that Town Manager Angus Jennings is going to be the host and it's up to the host how to recognize people. Her church had a Zoom annual meeting where there were 120 people, and same thing as a Town Meeting, warrants, articles, how much money spent. They did a really good job. The moderator stated you can't unmute without permission of the moderator, that the moderator can recognize people and can see the order in which they asked to be recognized on the track page.

So, she's assuming that the moderator would initially mute everyone and then recognize people to speak so they're not all trying to speak at once, but they can get their questions asked.

Selectman Glenn Kemper suggested that when they start the meeting, the Board of Selectmen can come up with questions, basic questions, answered by KC in two or three words, go through the whole thing that might answer a bunch of questions ahead of time that somebody might have.

Moderator KC Swallow stated that one thing she has done is, sent a draft of a letter that she wants to send to the whole town to Town Manager Angus Jennings for his input and to get input from anybody else that describes what's going on, and there's still some holes in it because she was waiting for information about things, which is exactly what he just said, it's an explanation of this Town Meeting, because it's a strange Town Meeting, but it explains what they're planning to do, how things are going to run, who is expected to what, tried to address the issues that people might have about just the meeting logistics, not the warrant or the line item budget.

And that letter should go out before we have this meeting because it encourages people to read the warrant, to read the line item budget carefully, and if you have informational questions, not discussion but questions about any of the items on the warrant or the line item budget, there will be this informational session because we're trying to dispense with as many questions as possible

before we get to the meeting to avoid trips to the microphone by the question asker and the potential question answerer.

Selectman Glenn Kemper stated that there might be questions from people who have never missed a Town Meeting in the 30 years they've been here and sitting in the audience and wondering why it's being done differently, so she might want to address that and give them the reasons why it's being done different, trying to get as much input as possible just this year.

Moderator KC Swallow hopes that everyone can answer questions about both the nuts and bolts of what's being talked about, the warrant, the line item budget, but also about the strange meeting that's different from anything done before. But she believes that if we engage the community in the whole thing, they'll help us, so she's very optimistic.

Selectman Glenn Kemper asked what's going to be the vote next week, that we're going to bring everything down just to 40? Town Clerk Michael McCarron said yes.

D. Painting on Saturday - Brake's Hill Water Tank:

Chairman David Archibald stated that we have a request by the contractor painting the Brake Hill water tank to work on forthcoming Saturdays in the summer. Asked why is this request being made?

Town Manager Angus Jennings stated that it's to keep the project on track timewise, they've been moving along very well but was some time lost because of COVID and they're looking to do painting work on Saturday. There wouldn't be any equipment so it wouldn't cause any noise, but obviously, neighbors would see people working so they would want to let them know ahead of time. If the Board does authorize this, his office would send a letter out to the neighborhood to let them know that they could expect painting work for the water tank on Saturdays.

Chairman David Archibald asked if it would save any money, and Town Manager Angus Jennings stated that he doesn't think so but he doesn't know since he's not dealing directly with the contractor, it's going through the Water Department.

Chairman David Archibald asked if there will be any time restrictions? Town Manager Angus Jennings stated that would be whatever restrictions the Board puts on there. The Monday through Friday says that people can start at 6:45 and he would absolutely not be in favor of that on a Saturday. Selectman Glenn Kemper suggested that 9:00 to 5:00 would be his suggestion on a Saturday and if they want to push back on that, they could give a detailed explanation of exactly what's going to be happening and why they need to be pushed.

Selectman Richard Parker suggested that they won't be across the street from anybody, they'll be up by the water tank so there will be a couple hundred yards or more. Selectman Glenn Kemper suggested that if any equipment needs to be moved into the site, he would ask that to be moved in on the weekdays. Selectman Richard Parker suggests that's reasonable, but if you limit them to 9:00 to 5:00, does that impact what they're going to be able to accomplish in trying to get the job done, and he doesn't want to infringe upon the neighbors.

Selectman Richard Parker thinks it's in everyone's best interest for the job to get completed as soon as possible, and he's not sure what their threshold is in terms of what point it doesn't make sense. Selectman Glenn Kemper suggests that we get back to them and see what they say and

then give specific reasons why that wouldn't work. Selectman Richard Parker doesn't see any reason to do that because if it goes earlier, he'll vote no.

Motion was made by Selectman Glenn Kemper to allow painting between 9:00 and 5:00 on Saturdays, beginning on June 27th. Second by Selectman Richard Parker.

Town Manager Angus Jennings wanted to clarify, as seen in the materials in the packet, the contractor had asked to start June 20th, Mike Cutea had advised wisely advised them that it might be that they couldn't start until the 27th to give people a letter. He would suggest that the Board's motion begin with the 27th, that way it gives us more time to make sure the letter gets into people's hands before they start seeing Saturday work.

So, that would be June 27th, July 11th, July 18th, and July 25th from 9:00 to 5:00.

Yes 3, No 0

Motion was made by Selectman Glenn Kemper, seconded by Chairman David Archibald to adjourn the meeting at 6:31 p.m.

Yes 3, No 0

Respectfully submitted,

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Approved by Board of Selectmen 3-0 on July 6, 2020