



**Town of West Newbury
Board of Selectmen
Tuesday, September 8, 2020
381 Main Street, Town Office Building
www.wnewbury.org**

RECEIVED
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2020 OCT 20 AM 10:16

Minutes of Meeting

Open Session: 7:21 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: 767-558-549

Or, from computer, tablet or smartphone: <https://global.gotomeeting.com/join/767558549>

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 7:21 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
- ❖ Stephanie Frontiera
- ❖ Chief Jeffrey Durand
- ❖ Jen Solis
- ❖ Adam Stone
- ❖ Wayne Amaral
- ❖ Kathy Feehery
- ❖ Ray Cook
- ❖ Joe Heyman
- ❖ John Harrington

Announcements:

- Chairman Archibald announced the Department of Energy Resources from the Commonwealth awarded West Newbury a Green Communities Competitive Grant (See pages 3 through 4 for information), which was further explained by Selectman Parker.
- Chairman Archibald announced that the Historical Commission, funded by CPC money, the Town put up a historical marker for D. Julian Steele, located in front of Town Hall, 491 Main Street. (See pages 5 through 7 for information)
- Chairman Archibald announced that there is a Flu Shot Clinic sponsored by CVS Pharmacy at Town Office Annex, September 8 and September 21, 2020, 4:00 to 7:00 (See page 8 for information)
- Chairman Archibald announced a call for volunteers -- seeking members for Finance Committee, ZBA (Associate Member), COA, etc. (See page 9 for information)

REGULAR AGENDA

A. Letter of Recognition for Officers Rich Parenteau and Paul Decoste:

Police Chief Durand gave public recognition to Officers Rich Parenteau and Paul Decoste regarding an incident that occurred on July 31st. (See Exhibit A, page 10 through 12 for information) Chief Durand further explained the incident and the response of these officers.

B. Request for Appointment of Officer Eric Forni as Interim Overnight Police Sergeant:

Town Manager Jennings explained that an Interim Overnight Sergeant job description was submitted to the union and received a note back in August stating that the union agreed to the interim position. (See Exhibit B, page 13 for information)

Selectman Kemper asked what overnight means in this context. Chief Durand explained that he would be the Overnight Supervisor on the 11:00 p.m. to 7:00 a.m. shifts.

Motion made by Selectman Kemper that Eric Forni be appointed as Interim Overnight Police Sergeant on the 11:00 p.m. to 7:00 a.m. shift. Seconded by Selectman Parker.

Yes 3, No 0

C. Request for Appointment of Dispatch Candidates, Monique Quadros and Kylie Kennedy:

Police Chief Durand requested Kylie Kennedy of Groveland, Mass and Monique Quadros of Haverhill, Mass, be appointed at part-time dispatchers. (See Exhibit C, page 14 or information) Also explained that there is still a full-time dispatch that they're trying to fill, so additional help would be great. Passed the background test interviews and both are good candidates.

Motion made by Selectman Kemper that Monique Quadros and Kylie Kennedy as Part-time Dispatchers until June 30, 2021. Seconded by Selectman Parker.

Yes 3, No 0

D. Updates Regarding Coronavirus Pandemic, Including Updates from Town Counsel Regarding Recent and Proposed Legislation and Executive Orders Regarding COVID-19:

Chairman Archibald explained that the Governor has allowed small groups of students overseen by one parent of one of the students in an afterschool setting, and they would be exempt from registering and being supervised by the community, but if there is no parent supervisor, the Town would have to oversee the registration and legality of the group. (See Exhibit D, pages 15 through 25 for information)

Town Counsel Michael McCarron explained that the Governor issued Order No. 48, which clarified enforcement of the social distancing rules and orders that the Commonwealth has promulgated, so that they should be treated like non-criminal disposition, basically for tickets that someone could grant, just like a violation of the Town Bylaws, and that the police and Board of Health are authorized to issue the tickets with fines up to \$300. He recommended that the Board of Health set up a schedule of fines for the violation and treat it like the schedule in the Bylaws.

Motion made by Selectman Kemper that under the new Order No. 48, to ask the Board of Health to set up a fine schedule at their next meeting and report back to the BOS and Chief of Police. Seconded by Selectman Parker.

Yes 3, No 0

E. Public Hearing Regarding Cable Television Licensing Process and Application for Renewal of Cable Television License Received from Verizon FIOS:

Town Manager Jennings explained that this is an advertised public hearing, that the legal notice did run.

Motion made by Chairman Archibald that a public hearing be opened related to the Verizon cable television license. Seconded by Selectman Parker.

Yes 3, No 0

Town Counsel Michael McCarron explained that it's a 5-year contract with Verizon FIOS to continue to provide cable services to the residents of the Town. (See Exhibit E, pages 26 through 66 for information) He further explained that as part of that process, Verizon will contribute two installments of \$7,500 to help pay for capital equipment for the Cable Advisory Committee. In addition, there is a PEG (Public Education Grant) that will be used to provide services and video for the Town public channel and pay for costs associated with that, which is the same as in the past.

Motion made by Chairman Archibald to close the public hearing at 7:48 p.m. Seconded by Selectman Parker.

Yes 3, No 0

Motion made by Chairman Archibald to approve the contract. Seconded by Selectman Kemper.

Yes 3, No 0

F. Request for Special Event Permit for Pipestave Hill Horse Trials Event on October 11, 2020:

Kathy Feeberg explained that trials is the standard and formal name for what the event is. (See Exhibit F, pages 67 through 71 for information) She further explained that she has already spoken with the Board of Health regarding COVID protocols, limiting the number of competitors to 40, with 10 volunteers to stay within state guidelines, she is donating masks for everyone.

Selectman Kemper asked if Parks & Rec has been noticed. She explained that they were notified in February. Explained that usually only the adventure trail that has the problem since there is usually no sports on this day. Town Manager Jennings stated that this was discussed in detail at the August meeting and there are no conflicts with Parks & Rec, and that the BOS just have to vote on it, just a housekeeping issue.

Motion made by Selectman Kemper to approve the special events permit for Pipestave Hill Horse Trials event on October 11th for the West Newbury Riding Club. Seconded by Selectman Parker.

Yes 3, No 0

G. Proposed Change to Electrical Permit Fees to Facilitate Allowance for Online Payments and Fee Waiver Proposal:

Sam Joslin, Building Inspector explained that they want to implement online payments since due to the pandemic, people want to be able to pay online, and which he has implemented in Newbury and Groveland. (See Exhibit G, pages 72 through 73 for information) He further explained his rationale that the way the electrical permit fees are set up, they're linked to the dollar value of the main building permit which makes it very complicated for the permitting software to calculate out a permit, so it's much easier if there's just a fixed schedule.

He further explained that he took the averages of what was made in the past years for single family homes, large renovations and small renovations, and came up with basic numbers, which is very similar to the other two towns he's been in, and pretty close to what other towns charge for permits.

Motion made by Selectman Parker to adopt the new fee schedule as stated in the agenda packet (page 72) dated 8/24/20. Seconded by Selectman Kemper.

Yes 3, No 0

Chairman Archibald stated that Building Inspector Joslin requested that fees be waived for placement of any permanent structure that was damaged by flood fire or other catastrophe. Waiver would only include the value of the reconstruction.

Building Inspector Joslin explained that there was a fire in Groveland and the couple lost everything, and he feels that it's just something that can help in a tough situation and is the right thing to do since the Town is not going to be out anything.

Motion made by Chairman Archibald to waive fees for damaged structures due to flood, fire, etc., (as in memo, page 73 of agenda packet) dated 8/31/20, and only include the value of reconstruction. Seconded by Selectman Parker.

Yes 3, No 0

H. Proposed Adoption of Updated ADA Grievance Policy:

Chairman Archibald asked Building Inspector Joslin if this is for Town employees or people in a Town facility, or someone making a grievance against a business in West Newbury. (See Exhibit H, page 74 for information) Building Inspector Joslin stated that it applies to everyone under the Americans With Disabilities Act. Must have a grievance procedure, just not written. As the ADA coordinator, people would call him with any grievance (citizen, visitor, employee) and he would investigate and act on the matter.

He further explained that it's a federal cookie cutter regulation that he could apply for a grant to have money for either personnel or other resources to come in and do an evaluation of the Town, which we are also expected to do under the ADA that they do not do. The grant would have someone come in to look at all public facilities and give a report as to where we're deficient and improvements to be made. Once that is done, a grant can be applied for to assist in making the improvements.

Motion made by Selectman Parker that the Grievance Procedure (page 74 in the agenda packet) be adopted. Seconded by Selectman Kemper

Yes 3, No 0

I. Presentation Regarding MS4 Stormwater Management "Stormwater 101" and Update on Items for FY20 Annual Report Due to U.S. EPA on September 30, 2020:

Wayne Amaral gave an update on the MS4 year 3 updates for stormwater, required by law to have a yearly meeting to hear people's comments on MS4 permit. (See Exhibit I, page 75 for information) He explained that the document is a work in process, continually updated all year long depending on changes, modifications, improvements around town. He also explained that there are new tasks that will be taken on for year 3 and explained the steps and rationale for each.

Chairman Archibald stated that it would be great to formalize who is the responsible party to respond. Selectman Kemper asked if it's OSHA approved, and Mr. Amaral stated that it's Class 3. Selectman Parker also asked if the MS4 permit area could be described. He explained that it's west of Town Hall, which is not a large area, and shared a map depicting the area.

Town Manager Jennings stated that with the Construction Stormwater Management Bylaw, originally something that was part of plan year 2, postponed due to EPA agreement, and this year, can get this done. Not something to rush on, want to get it done right. One of the questions is the applicability of a new bylaw. If there's going to be new heightened standards for erosion control, stormwater management, new heightened inspections of construction or land disturbance in the area, could go one of two ways, only apply new standards within the so-called urbanized area or do it town-wide, and staff has mixed feelings as to each and one of the issues that as a Town will need to be decided and more discussion needs to be conducted.

There was further discussion by all parties as to what has to be done in order to report yearly to the EPA about what is being done as to the permit requirements on a yearly basis.

J. Discussion of Anticipated Schedule for Certification of FY20 Free Cash and Effect on Town Meeting:

Town Manager Jennings stated that this is just informational, that normally with the Fall Town Meeting, at least some of the Articles would be funded from free cash, and he's making efforts to get the documentation assembled for submittal to DOR for free cash certification, but at this point, not working on the expectation that free cash will be certified by October 17th. Factors are that the Town Meeting date is earlier than normal, but bigger factor has been the continued challenges for the software conversion, COVID, and all additional work that's generated with the Cares Act and tracking costs for FEMA reimbursement. Basically, even if we do get all of the paperwork assembled that need to get to DOR for free cash certification, not sure it would make sense to go forward because until the auditor has been in and done his work and signed off on the financials, some risk that if everything is submitted to DOR and get free cash certified and the auditor finds something that wasn't done right, creates complexity.

So, in the next agenda item, he's proposing that the dollar Articles be funded other than through free cash, primarily through budget amendments to the FY21 budget since there is some funding in the budget that can be cut, so can be put to other uses.

K. Vote to Close Warrant and Finalize Date and Time for Fall Special Town Meeting:

**Motion made by Chairman Archibald to close the warrant for the Special Town Meeting.
Seconded by Selectman Parker.**

Yes 3, No 0

Chairman Archibald initiated discussion regarding Saturday, October 17th at 10:00 a.m. for Special Town Meeting, with a rain date, Sunday, October 18th. Hasn't gotten any feedback and thinks it's a reasonably comfortable date. Selectman Kemper asked if the quorum issues have been settled, and Chairman Archibald stated it was voted on last time.

Selectman Parker stated that regarding the use of free cash, wanted to know if the 5-year warranty plan for the EV charging stations would be resolved if done out of free cash. Town Manager Jennings stated that the source of the money isn't the issue, he's in favor of the warranty, but the issue is what can be paid for in FY21 and the number suggested would be to prepay for five years of warranty and he's been advised that's not in accordance with DOR restrictions on the use of this year's money to pay for a benefit that's not going to be received for the next four years, so it's a problem. Talked to Tony Parenti who said he's aware of other

communities who have prepaid for the full 5 years, but that the current advice is that it's not allowable to prepay, but might be able to get a clause within the warranty that says subject to appropriations, so would propose the funding but it's the taxpayer's money and can't speak for that until they have. He said that clause would not be agreeable, so left the call with the understanding that would need to propose just a single year of funding for the warranty and then next year to do another single year, which ends up being more expensive over the 5-year life.

Selectman Kemper suggested a revolving fund, but Town Counsel McCarron doesn't think it can be done because the money should be the money collected that is spent. Further discussion was held on this premise.

L. Review of Requests for Warrant Articles for Fall Special Town Meeting and Determination of Which Articles to Include on Special Town Meeting Warrant:

Chairman Archibald stated that they should decide now which Articles are going to be on the Warrant and make the final determinations now. Town Manager Jennings suggested that on the matrix that was sent out, whether they see it as something for next spring or now so that he can know what to take up.

Article #22 on the matrix, Town Manager Jennings stated that the language reflects a minor change which was responsive to a suggestion made during the initial Public Hearing last spring, so the draft of the zoning has been favorably recommended by the Planning Board and is substantially similar to what was proposed and passed over in June. Ray Cook stated there's nothing substantive, doesn't change how things are done, just cleaning up the language in line with Mass General Laws, removing ambiguities in line with what consultant recommended years ago. Have had two public hearings and the rationale behind each suggested change is well explained by Planner Zambenardi in the document.

Discussion was had whether it's just housekeeping, what is the hurry now. Ray Cook explained that two public hearings were held, and with the bylaw the way it is now, in conflict with some Mass General Law provisions, some ambiguities that are confusing to people trying to abide by the bylaws, conflicts were removed, and continued delays will make for a longer meeting later.

Selectman Parker is supportive going ahead for the amount already invested. Chairman Archibald feels that if it's important enough that there's some conflict with Mass General Laws, it should be done, but if it's housekeeping, shouldn't be done, but changed his position with his support to putting it on, and Selectman Kemper agreed.

With regards to Articles 1 through 4, all members favorable to include as summarized.

Article 5, everyone was favorable but discussion with one Board member whether it makes sense to try to tackle both the personnel policies and comparative wage benefit study, which is a lot to tackle in a year where we're already overstretched and feels that we have to tackle personnel policies that causes more time intensive problems if we can just get those fixed, will help; unanimous support to bring forward a number. If were only to do the personnel policies, he feels that \$15,000 is reasonable rather than the \$30,000 shown for two studies. Also thinks going to be very competitive for the Community Compact Best Practices grant.

Motion made by Selectman Kemper to recommend \$15,000. Seconded by Chairman Archibald.

Yes 3, No 0

Article 7, flower baskets, two Selectman wanted to include, one did not. Selectman Kemper stated he thought the Garden Club was paying for it, so he's not happy about it, but should be put towards Town Meeting and see if the Town likes the baskets and if they want to pay for them. He would say no but see what the Town thinks. Selectman Parker stated that the Town hasn't been paying for it but now in order to continue, would be, and agrees to let the Town decide.

With regards to police cruiser, no pursuit rated hybrid vehicle, so need to buy Ford Explorer. Selectman Parker stated that the vehicle proposed by Chief Durand is a hybrid, all-wheel drive hybrid Explorer. Grant is applicable to this vehicle. Town Manager Jennings suggested adding another \$4,000 to cover all costs, which everyone agreed to.

Article 9, high hazard tree removal, all three supportive. Not assuming that free cash would be an option, penciled in that this would be put into operating budget. Feels that Fin Com would favor that since their criticisms of this Article last year was that it was a five-year program and should have been in the operating budget rather than in Articles since not recurring indefinitely. Feels there's support for keeping the Article on.

Article 12, transfer of funds from School Stabilization. Amount put in, \$404,993, is the exact difference between amount transferred from School Stabilization for the current budget year and the amount of actual debt service in Pentucket assessment, so can't transfer more than that, so that would be the ceiling. All Selectman agree to keep on Warrant.

Article 8, Capital Stabilization Article passed in June. Would require the CIC to affirm its recommendation, thinks they would, but wants to see it happen under the bylaw. Selectman Kemper thinks no, but if don't approve, won't see the truck. Chairman Archibald stated wouldn't be able to use this or next winter, so Selectman Parker thinks we need to go with it in order to purchase the plow. All Selectmen agree to keep on Warrant.

Sunset date on Fire Rescue Vehicle; no issues.

Board of Assessors, consultant for utility valuation, everyone thinks no need to do it now especially with big turnover. Should assess the department and go forward. Town Manager Jennings stated will not be included and be considered for spring, depending on staffing.

Article 18, portable restrooms. Town Manager Jennings stated that vendor worked with last year went out of business and was reviewing invoices, and last fall about \$600/month for 4 units, but invoice says 3 units, now is \$4,200/month. Part is vendor change, part is COVID enhanced cleaning, now daily instead of weekly, but there is a shortfall. Not prepared to go as far as the \$33,000 figure that Park & Rec put out but thinks there's a definite shortfall and that any costs directly attributable to COVID can be submitted for reimbursement through the Cares Act. Recommends putting it on the Warrant but thinks transferring from a revolving fund to the taxpayer needs to be looked at closely.

Article 6, Parks & Rec, ball field repairs. All Selectmen are concerned with the differing figures and don't feel it should be added at this time.

Article 19, Tree Committee, supplemental tree plantings. Chairman Archibald and Selectmen Kemper say no, Selectman Parker says yes.

Article 17, Harbor Committee, proposed Town Mooring field. Town Manager Jennings recommended to the Harbor Committee that they convene a meeting to review the Phase One work products that was recently received and once they've reviewed that, he would recommend they present it to the Board of Selectmen to get everyone up-to-date. All Selectmen said not to add to the Warrant at this time.

Article 14, materials for bridges at Dunn Field. Chairman Archibald and Selectmen Kemper say no, Selectman Parker says yes.

M. Update on Planning Board Site Plan Review Process for Electric Vehicle Charging Stations Proposed at 1910 Building and at Page School:

Ray Cook stated that he supports the EV charging stations. Raised a couple of issues and reported that. (See Exhibit M, pages 76 through 106 for information) Also discussed playground and that is also supported.

Town Manager Jennings suggested that this be included on the Warrant with the understanding that the \$9,980 is the cap, and if the full five years can be done, that would be great, but if not, may end up needing to be a lesser amount to deal with the first year costs.

Selectman Kemper asked if the warranty covers everything, and Selectman Parker offered to send the warranty that is published on to Town Manager Jennings, but he read through it and believes it covers everything without having to contribute anything.

N. Announcement of Execution of FY21 Police Union Contract:

Town Manager Jennings stated just informational, that there is a requirement to be formally announced at a public meeting. (See Exhibit N, pages 107 through 108 for information) Chairman Archibald stated that the basic tenet of it is, the contract is similar to the contract in effect until June 30, 2020, and the basic change was a 2% increase on the base patrolman's pay over the contract that expired on June 30, 2020, and very few other minor changes.

O. Meeting Minutes: August 18, 2020, August 17, 2020, August 6, 2020, August 3, 2020:

(See Exhibit O, pages 109 through 129 for information)

Motion made by Chairman Archibald to approve all minutes as written. Seconded by Chairman Parker.

Yes 3, No 0

TOWN MANAGER UPDATES

P. Update on Contract Award for Engineering/Design/Permitting for Middle Street Bridge:

Town Manager Jennings updated regarding the signed contract in the agenda packet. (See Exhibit P, pages 130 through 142 for information) Also stated is going to be an intensive permitting process, good to have contract in place with BSC, and that the permitting stage costs were covered by grants so no costs will hit the taxpayer at the permitting stage.

Q. Update on the Emergence of an Algae Bloom on the Upper and Lower Artichoke Reservoirs:

Town Manager Jennings updated on this item. (See Exhibit Q pages 143 through 147 for information) Stated that the algae bloom is a source of real concern. City of Newburyport recently issued a cease and desist order regarding the allowance of cows to enter the water, so currently under review and referred locally to Board of Health to look at. Don't know when they'll take that up at a meeting for discussion, but the 10 days that was provided to the land owner to respond runs its course on September 14th, so after that, can provide a further update, but feels wanted to provide an update need to be doing everything to secure the public drinking water. Chairman Archibald stated that there were no water problems at the present time, and Town Manager Jennings agreed that's correct. Selectman Parker stated that as the temperature drops, the algae bloom should taper off. Town Manager Jennings stated that once it happens, it's too late, it's more looking ahead to prevent this from happening in the future. Lots of years of correspondence on this and efforts that have been made in the past to shut it down or prevent the activity, so it's now getting high end attention.

R. Follow-Up Meeting Assignments and Placing Items for Future Agendas:

Selectman Kemper wanted to submit the Legion contract and how it's going. Also wants to hold an Executive Session to review contracts, i.e. DPW and Dispatch and police.

Chairman Archibald wants to hold a meeting in the fall with Department heads and Committee Chairs to discuss goals for FY21, be more cohesive, as well as a housing plan.

Selectman Kemper thinks the master plan needs to be updated with the affordable housing plan, perhaps put an article together to get outside help. Town Manager Jennings stated that while it's written, it's unrealistic that it will be implemented due to staffing problems.

Motion was made by Selectman Kemper to adjourn the meeting at 10:12 p.m.

Respectfully submitted,

Susan M. Lobie, Certified Electronic Transcriptionist
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Approved by Board of Selectmen 3-0 on 10/19/2020 as amended.