



**Town of West Newbury
Board of Selectmen
Monday, September 21, 2020
381 Main Street, Town Office Building
www.wnewbury.org**

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2020 OCT 20 AM 10:16

Minutes of Meeting

Open Session: 7:14 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: (646) 558-8656

Access Code: 924-3933-6889

Or from computer, tablet, or smartphone:

<https://zoom.us/j/92439336889?pwd=cE1xU01NSTk1Qkw5cmJpK0t4L2tBUT09>

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 7:14 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
- ❖ Planning Board Members Ray Cook, Ann Bardeen, Jim Cronin, Brian Murphy, Wendy Reed
- ❖ Stephanie Frontiera
- ❖ Jenny Walsh
- ❖ Elisa Grammar
- ❖ Ann O'Sullivan
- ❖ Jen Solis

❖ Pablo, National Grid

Announcements:

- Chairman Archibald announced a call for volunteers -- seeking members for Finance Committee, ZBA (Associate Member), COA, Cable Advisory Committee, Energy Advisory Committee, Cultural Council and Historical Commission, Historic District Commission (See pages 2 through 3 for information)
- Apple Harvest Road Race this year is virtual. Check out on the internet and participate.

REGULAR AGENDA

A. Joint Meeting with BOS and Planning Board to Consider Appointment of Associate Planning Board Wendy Reed as Planning Board Member to Serve Remaining Term of Richard Bridges:

Joint Meeting convened at 7:16 p.m.

Ray Cook elaborated on the appointment of Wendy Reed. (See Exhibit A, page 4 for information) Stated that she does a wonderful job, is a great addition, and fully supports her as a member.

Motion made by Selectman Kemper that Wendy Reed be a full member of the Planning Board through the first Monday of May 2021. Seconded by Ray Cook.

Board of Selectmen – Yes 3, No 0

Planning Board – Yes 4, No 0

Planning Board excused from Joint Meeting at 7:22 p.m.

B. Public Hearing: National Grid Petition to Relocate Utility Pole #10 on Farm Lane (WRN #27570947):

Public Hearing convened at 7:22 p.m.)

Motion made by Chairman Archibald to open a public hearing on movement of telephone pole on Farm Lane. Seconded by Selectman Kemper.

Yes 3, No 0

Town Clerk McCarron explained that a pole on Farm Lane is being relocated about 27 feet in order to serve the new Middle High School. (See Exhibit B, pages 5 through 12 for information) Pablo, representative from National Grid stated he would be happy to answer questions.

Motion made by Selectman Kemper to approve the relocation of the utility pole. Seconded by Selectman Parker.

Yes 3, No 0

Town Clerk McCarron stated that he will prepare the documents for signatures for the BOS.

Motion made by Selectman Kemper to close the public hearing. Seconded by Selectman Parker.

Yes 3, No 0

C. Request for Authorization to Apply for Edward J. Byrne Memorial Justice Grant:

(See Exhibit C, pages 13 through 28 or information) Selectman Parker stated that if it was up to him, he would select laptops, but Chairman Archibald stated that he thinks it's up to Chief Durand to decide what is more valuable.

Motion made by Selectman Parker to allow Chief Durand to apply for grant through the Edward J. Byrne JAG Program for equipment for the Police Department. Seconded by Selectman Kemper.

Yes 3, No 0

D. Update on Board of Health re: Consideration of Potential COVID-related Violations:

Chairman Archibald explained that at the last meeting, the BOS recommended that the BOH take up the possibility of fines for not wearing masks when social distancing is not possible. The BOH determined that they did not feel that it has been a big issue in West Newbury and that positive persuasion rather than negative reinforcement with fines was a better way to go. (See Exhibit D, pages 29 through 39 for information)

Town Manager Jennings stated that one other consideration is that the police and Health Agent have the authority under the Governor's order without the adoption of a local fine schedule, so in the event that they did feel that any incident rose to a level where fines were justified, they already have that authority. Selectman Parker offered and Town Manager Jennings agreed that there is already a fine structure dollar amount in place, but Town Clerk McCarron suggested that in the event that fines were to be issued that they not exceed the \$300 statutory threshold even though the Governor's order refers to in some instances a fine as high as \$500. He has cautioned the Chief and Health Agent to avoid any potential of whether that's enforceable to have an informal cap of \$300.

E. Update From Board of Health Regarding Consideration of Potential COVID-related Halloween Planning:

(See Exhibit E, pages 40 through 46 for information) Chairman Archibald stated that the plan is to wait to see what the Commonwealth's recommendations are.

F. Update on Planning for Outdoor Town Meeting on Saturday, 10/17 at 10:00 a.m. (rain date Sunday, 10/18 at 10:00 a.m.):

Chairman Archibald reiterated the information regarding the Special Town Meeting. Town Manager Jennings explained that there was a meeting held earlier in the day and everyone felt

that the June meeting was very successful in terms of the logistics and layout, so the talk was today of what to anticipate in terms of attendance, set up fewer stakes in the field because doesn't think the attendance will be as high as in June, coordinating sound system, tracking all expenses as reimbursable under the CARES Act.

Also talked about whether they wanted to do another town-wide mailing like was done in June that would go to every household to let them know about the date and logistics of Town Meeting, and he feels they will do another mailing just to err on the side of making sure people know about it, even though they don't think there's anything on the Warrant that rises to a great level of controversy, but they think the School Stabilization Article is of great consequence and they want to be sure that voters know that the Town Meeting is going forward. Approximate cost of postage for mailing is \$500.

G. Presentation of Preliminary Estimate of FY21 Tax Rate, Based on Approved FY21 Budget and Warrant Articles, and Based on Assumed FY21 Assessed Values and Projected (Estimated) FY21 Non-Tax Revenues:

Town Manager Jennings reviewed the table in the agenda packet (page 47) (See Exhibit G, pages 47 through 53 for information) He also outlined the different scenarios and tax rate outcomes. Stated that the assumptions we're making are on new growth and town-wide assessed value, as well as the non-tax revenue receipts, all of which play into both the tax rate and the levy limit.

Built in scenarios for the approval of all of the budget amendments proposed in Article 3, the net effect of all of those amendments together would be a reduction of \$152,423; second is Article 2, which the Selectmen have proposed a transfer from School Stabilization of \$404,993; and third, next on the agenda, is something the Town has not done before but is an option available if they choose to take it, which would be to include an Article on the Warrant to transfer overlay surplus for the express purpose of reducing the FY21 tax rate. Explained what would happen in each scenario.

H. Consideration of Reopening Special Town Meeting (STM) Warrant and Adding Article to Transfer Overlay Funds to Reduce FY21 Tax Rate:

Discussion was had regarding the third option. (See Exhibit H, pages 54 through 63 for information) Selectman Kemper felt that this would be a unique opportunity to reduce the tax rate and would agree for that purpose only. Town Manager Jennings and Selectman Parker stated that the Fin Com thinks it's a good idea. Town Counsel McCarron stated that it had been confirmed with DOR that it's a totally appropriate use of surplus overlay.

Selectman Kemper feels that it's being used for a good purpose but stated that they should be careful of not using too much this year and making future years unattainable and that this would be a one-time event. Selectman Parker questioned whether this is sustainable and shares his concern about that. Chairman Archibald stated that this was extra tax money taken out in case people needed an abatement and now is the perfect use of this money to lower the tax rate.

Chairman Archibald made a motion to reopen the Warrant for the sole purpose of adding an additional Article related to transferring the overlay surplus to reduce the tax rate. Seconded by Selectman Kemper.

Yes 3, No 0

Motion made by Selectman Kemper to close the Warrant. Seconded by Selectman Parker.

Yes 3, No 0

I. Review of STM Warrant, and Board of Selectmen Recommendation regarding Warrant Articles:

Chairman Archibald summarized what is being discussed. (See Exhibit I, pages 64 through 90 for information) He described the three-way chart with three possible ways to impact the tax rate. Stated that adding all three items together would come to a little more than \$750,000 that would go toward reducing tax rate if all three were approved, which would mean an increase in the tax rate of 1.2%, as opposed to an increase in the tax rate of 6.5% if all failed.

Chairman Archibald stated that his feeling is that he would approve Article 3, net \$153,000 reduction, would recommend approval of the overlay which will decrease taxes \$220,000, and would recommend using approximately half of Article 2, to transfer from School Stabilization approximately \$200,000, with the net effect of having approximately a 2% or 2.5% increase in taxes in a year that has been a financial nightmare.

Selectman Parker stated that he was thinking along similar lines, but would want to avoid a big jump at a later date, and the reduction from School Stabilization would smooth the tax rate increase, which was agreed by Selectman Kemper.

Selectman Kemper asked what the Fin Com is thinking, and Selectman Parker stated that they unanimously disapproved of the School Stabilization transfer. Town Manager Jennings stated that they did disapprove of the \$404,000, and after the vote, he asked if they wanted to consider some lesser amount, but it was clear that the Chair wanted to move on to other business, so they did, but he feels that there is some number that they would agree to, but at tomorrow night's meeting, if the Selectman arrive at a number different than the \$404,000, they might consider it, and he feels that the Moderator would agree to have a united front on this, and he has suggested that there might be a joint meeting with the Selectmen and Fin Com just like before every Town Meeting next Monday to discuss it.

Selectman Parker stated that it's an interesting idea to zero it out for this year and have the School Stabilization transfer exactly equal the contribution this year, which would be an additional roughly \$80,000. Chairman Archibald thinks it's okay because with the \$80,000 plus the \$240,000 already appropriated, that would be approximately half of the \$650,000 which was the original intent, assuming the overlay would pass.

Motion made by Selectman Kemper, with regards to Article 2, amount to transfer from School Stabilization Fund to lower the tax rate be \$80,953 (net zero). Seconded by Chairman Archibald.

Yes 3, No 0

Motion made by Chairman Archibald, with regards to Article 3, to approve Article 3 as listed, with a net effect of raise and appropriate a negative \$153,423. Seconded by Selectman Parker.

Yes 3, No 0

Town Manager Jennings stated that the only thing added since the last meeting was on the unemployment insurance. At this moment, don't have any pending claims or significant monetary exposure. There is one claim with potential exposure on the order of \$500-600, but as a general statement, been seeing more claims with COVID than prior, but when there's an unemployment claim, it doesn't mean that someone has left employment and immediately filed a claim. They might reach back a year or so.

Even with no exposure, feels that it would be good to add \$7,500 to the operating budget to have a line to hit if there is a claim. Explained that even with the proposed reduction, that still does carry almost \$30,000 that's above budget, so if there is a mid-year adjustment, still have a healthy contingency in that line.

Chairman Archibald commented regarding line item 32, Park & Rec, \$5,000 to \$17,000 is a huge change in the operating budget and wanted to know what part could theoretically be covered by the CARES Act. Town Manager Jennings stated that he has looked closely at the invoices from last year to this year, and last year it was \$600-700/month for the port-a-potties, and this year it's multiples of that. The challenge in trying to pin down the cost driven by COVID is that there's also been a vendor change, so their base pricing is higher than the former vendor. So, going to submit the full cost for reimbursement through the CARES Act, and he doesn't know if can get the full amount, but thinks a significant share will be reimbursable.

Town Manager Jennings offered information on the electric vehicle charging stations. He stated that he spoke with the DOR attorney, and he stated he was comfortable with the 3-year prepurchase of a warranty as long as the warranty is in place when the units initially come online. He did raise a concern about anything beyond three years, as that is kind of the cap on contractual obligations that you can enter without Town Meeting approval. Was referred to the Inspector General's legal, got a call back today, and on the question of a 5-year prepay, he said if you have Town Meeting authorization to do so, they're okay with that. Town Counsel McCarron stated that's his understanding and five years would be okay if the Town Meeting votes it that way.

With regards to Article 5, the DPW Plow/Dump Truck, total amount is \$240,000, which was passed over at last Town Meeting, but was approved by CIC and BOS were in favor of this in the past but deferred. Now, because of the long lag time in getting a vehicle and potential costs increases if we wait longer, the DPW Director feels it should be gone for now.

Motion made by Selectman Kemper to approve Article 5. Seconded by Selectman Parker.

Yes 3, No 0

With regards to Article 6, Fire Chief wants to extend the sunset date for the purchase of the fire rescue vehicle. Won't change the pricing but wants to make sure the vehicle is finished and can be done before the money goes back to free cash.

Motion made by Chairman Archibald as adopted under the motion pursuant to Article 18 of the Annual Town Meeting to extend the sunset date one year, through FY2023 for the fire rescue vehicle. Source, stabilization fund. Seconded by Selectman Kemper.

Yes 3, No 0

With regards to Article 4, Town Manager Jennings referred to page 64 of the packet in the draft warrant, lists the actual amount proposed (\$14,920) for insurance in the event that a new water operator is hired beginning 11/1, at a full premium top of the line family plan, which would represent 8 months of the Town's share of that family plan, a conservative number.

Motion by Selectman Parker for the \$14, 920 for insurance for potential new staff for the Water Department, funded by Water Department revenue. Seconded by Chairman Archibald.

Yes 3, No 0

With regards to Article 7, zoning amendments, Chairman Archibald doesn't think the verbiage needs to be rehashed, but just whether to add a zoning amendment Article to a Special Town meeting that hopes to be short.

Motion by Chairman Archibald to approve Article 7, Planning Board zoning amendment changes. Seconded by Selectman Kemper.

Yes 3, No 0

J. Update on Status of Designer Contract for Soldiers & Sailors Building Restoration:

Town Counsel McCarron updated everyone on this. Stated it's been pretty tough, and thinks with the election, it's been a time sink on his office, which is very busy, and would recommend putting this out to outside counsel to help. In order to do it right, it's going to take a lot of time, and in his case, gets interrupted and would like dedicated time without interruption, as well as more expertise.

Selectman Kemper inquired with regards to a contract that could be marked up. Town Counsel McCarron stated that's correct, but it's the architect's contract. Went over it, but a lot that he feels he would like to have more expertise in going through the contracts. Stated that the money already appropriated could be used for that.

Motion made by Selectman Kemper to use outside counsel to draft and review the contracts immediately. Seconded by Selectman Parker.

Yes 3, No 0

Chairman Archibald asked if they have someone in mind. Town Counsel McCarron stated K.P. Law. Town Manager Jennings stated that they have a deep bench and people who specialize in this area. Selectman Parker asked how much is this likely to cost and how would it impact things, Town Counsel McCarron stated that he doesn't anticipate it taking a tremendous amount of time to review and put standard legal protections in place. Town Manager Jennings stated that it's written into their agreement that anytime he requests service, he provides the scope of what is needed and they give him an amount and they don't start billing until their numbers are approved.

Ann O'Sullivan stated that she is happy to hear that Town Manager McCarron is willing to use outside counsel since it needs to move forward, and it was presented to the Town last fall that this is incredibly important to be done, timely, a year will go by, and she's concerned that if we don't get something in line quickly, then at the next Town Meeting, going to lose some credibility because were told it would get done and it hasn't been done, and support for the restoration will be lost and the building needs to be protected.

K. Review Schedule for Future Board of Selectmen Meetings:

(See Exhibit K, page 91 for information)

With regards to a joint meeting with Fin Com, Town Manager Jennings stated that he's heard back from 2 out of 5 Fin Com members are available, also spoke with Casey who is available for next Monday, but if can get all five, that would be ideal.

With regards to future dates, all meetings through December 14th are okay. Selectman Parker suggested that December 28th pushed to January 4th, since always have a lot to do coming out of the new year. Town Manager Jennings suggested skipping December 28th, moving it to January 4th, and then it could be the 4th, 18th, etc. to get back on schedule. Everything through December 14th is confirmed, everything after that will revisit.

TOWN MANAGER UPDATES

L. Progress Update on Vendor Contract for Page School Fire Alarm System:

Updated provided by Town Manager Jennings. (See Exhibit L, pages 92 through 110 for information) With regards to the Page School fire alarm, Wayne is doing tremendous work. Learned that it's a longer project than they realized, it's 12-16 week, so major project management issue. Executed a contract earlier today. Was a cost premium because the work cannot be done while school is in session and while the Children's Castle is in operation, so they're going to do 4:00 p.m. to midnight shifts to avoid the operations.

One small piece that had to be taken out because of the extra costs with the second shifts, but nothing that is going to affect the function of the system, but there will be an additional capital proposal for next spring on the order of \$15,000 to \$20,000 for final control box which will remain in the Children's Castle for now. Was intended to go into the school, so there's going to have to be a separate funding article to get that final control box back into the school.

M. Update on Work Toward CARES Act Filing Due September 25th:

Update provided by Town Manager Jennings. (See Exhibit M pages 111 through 112 for information) Stated just got the guidance a little less than two weeks ago in terms of what the quarterly reports require, and he feels we're going to be in good shape because they've been diligent right along in tracking the costs as they go. But is due this Friday, so will take a chunk of time this week. Has only looked at the guidance but putting the report together will take some time. Will include the report filed in the next packet as informational so everyone will have all of the breakdown of the CARES Act expenses that were documented.

N. Mass Works Quarterly Report Due September 30th:

Update provided by Town Manager Jennings. (See Exhibit N pages 113 through 114 for information) Due next week. Draft in the packet. Pretty straightforward. Just wants to show progress every quarter, and in good shape with that. Recent correspondence late last week and earlier today between the design engineer and Conservation Commissions in both communities on the question of whether the portion of the connecting the reservoir is considered river for the purpose of Riverfront Protection Act or Rivers Protection Act, and got the opinion from the Newburyport Conservation Agent that it is not considered river there, and West Newbury Conservation Agent will review with his Commission to find out.

O. FY20 Green Communities Annual Report Due November 6th:

Update provided by Town Manager Jennings. (See Exhibit O pages 115 through 117 for information) Isn't due for a while, but had a good meeting last week with himself, Rick, and Annie, and Rick has done a terrific job organizing what the data needs are, wants to thank him for that, and would love to get to the point where more can be done in-house, but it makes his and Annie's jobs easier. Should be filed in a timely manner.

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

Selectman Kemper asked a question about contract, whether it has to be approved by the BOS or the Chief Procurement Officer and Town Manager Jennings to send out to the architect. Town Manager Jennings stated that it's just the Chief Procurement Officer.

Selectman Kemper stated that he wouldn't mind having an executive session, starting to talk about contracts for Town Manager Jennings' contract, dispatch, and police, and a procedural point about how Town Manager Jennings' contract should be discussed.

Motion was made by Chairman Archibald to adjourn the meeting at 9:06 p.m. Seconded by Selectman Parker.

Respectfully submitted,

Susan M. Lobie, Certified Electronic Transcriptionist
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Approved by Board of Selectmen 3-0 on 10/20/2020 as amended.