



Town of West Newbury  
Board of Selectmen  
Monday, October 5, 2020  
381 Main Street, Town Office Building  
[www.wnewbury.org](http://www.wnewbury.org)

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WEST NEWBURY, MA  
2020 OCT 20 AM 10:15

### Minutes of Meeting

**Open Session:** 7:11 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](http://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: 993-9005-5073

Or from computer, tablet, or smartphone:

<https://zoom.us/j/99390055073?pwd=bVFEXcDIvN0x6UnZlUzRuWi9mZmh4UT09>

*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 7:11 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
- ❖ Jenny Walsh
- ❖ Building Inspector Sam Joslin

### **Announcements:**

- Fall Special Town Meeting, Saturday, October 17, 2020 at 10:00 a.m., Bandstand/Bachelor Street Fields
- Special Town Meeting Pre-meeting at October 14<sup>th</sup> at 6:00 p.m.
- West Newbury Board of Health – COVID-19 Update #13, posted to Town Website (See page 2 for information)
- West Newbury Red Cross Blood Drive, Wednesday, October 14, 8:00 a.m. to 1:00 p.m., Town Offices Annex (See page 3 for information)
- Newburyport fall hydrant flushing underway, West Newbury hydrant flushing coming soon (see page 4 for information)
- Call for volunteers – seeking members for Finance Committee, ZBA (Associate Member), etc. check out the Town website.

### **REGULAR AGENDA**

#### **A. Request for Appointment of Celeste Edwards to Council on Aging and Historical Commission:**

Town Manager Jennings updated on this appointment. (See Exhibit A, page 5 for information) Stated that both expressed a lot of support for this appointment.

**Motion made by Chairman Archibald to appoint Celeste Edwards to the Council on Aging for a term ending June 20, 2021, and the Historical Commission. Seconded by Selectman Parker.**

**Yes 3, No 0**

#### **B. Updated Regarding Coronavirus Pandemic, Including Recent and Proposed Legislation and Executive Orders Regarding COVID-19 and Recent Halloween Guidelines Issued by the Commonwealth:**

Update by Chairman Archibald. (See Exhibit B, pages 6 through 39 for information) Stated that at the moment, the guidelines have not been formulated by the BOH, but at the moment, the West Newbury BOH is of the opinion that will have trick or treating in West Newbury. There are new guidelines on Halloween from the Department of Public Health and the state and people can go on the Department website to look it up. Regulations will be formulated much closer to Halloween since things change day-to-day.

### **C. Request for Authorization to Submit ADA Assessment Grant:**

Building Inspector Sam Joslin updated everyone about the Americans with Disability Act submission grant. (See Exhibit C, pages 40 through 49 or information) Stated that in 1990, the ADA was put in place. At that time, each city and town was supposed to do a self-evaluation of public facilities and use that to move improvements forward through their capital plan. So, about 30 years behind, but better late than never. Lots of small towns are in the same, last year, Groveland got the same grant.

The grant gets money and professional services to meet the criteria of developing the self-evaluation and plan. Doesn't add to list of things to do or add to monies to spend. Just takes and identifies the issues already have, puts them in a format that we can start looking at them, and if can be fit into capital plans, that's great. It also opens up the door for other grants to make the improvements, but the first step is getting this grant through.

Chairman Archibald asked whether his responsibilities with the school building project, would this put an overdue burden on him and other people in the Town. He stated that it's a great opportunity to take some of the burden off of him and put it on someone who solely focuses on doing this type of work. He's very familiar with it, but the people we get with the grant are specifically from the Office on Disability and this is all they do. It's very thorough, doesn't cost us anything if we get the grant. Even if we don't get the grant, still have the obligation to do the work then it falls on him, which is why he wants this approved.

Selectman Kemper asked that once we get the recommendations, how long do we have to fix problems or adhere to the recommendations. Mr. Joslin stated that doesn't have to be done overnight, just show we're making an effort. Know there are deficiencies, just a matter of getting them in a comprehensive list, into the capital plan, so if the state comes in and says something needs to be addressed, can show made an effort to put a list together and start planning. If nothing is done, much worse position. Makes us eligible for the next round of grants for the improvements but have to have this in place first. Covers all public facilities, i.e. playgrounds, trails, fields, anything that is public use that is owned by the Town will be looked and given a recommendation on.

**Motion made by Selectman Kemper to give approval for Mr. Joslin to apply for the grant. Seconded by Selectman Parker.**

**Yes 3, No 0**

### **D. Review of Finance Committee Booklet for Special Town Meeting:**

Town Manager Jennings updated on this item. (See Exhibit D, pages 50 through 65 for information) Stated it's informational to make people aware that the booklet is broadly available, linked from the Town home page and in hard copy in places around town.

Feels Fin Com did a great job on short notice and would like to publicly recognize that. There is complexity to it and they rolled up their sleeves and got it done in very short time.

## **E. Review of Draft Special Town Meeting Motions:**

Updated provided by Town Manager Jennings and Town Counsel McCarron. Draft motions in e-mail.

Article 1, reports. No motions but put "Reports are at the discretion of the moderator." Chairman Archibald requested that anybody that wants to give a report, to give the Town and Moderator some lead time to know that and keep to 5 minutes or less.

Article 2 states, "I move that the Town vote to transfer the sum of \$80,953 from the School Stabilization Fund to pay the Town share of debt service associated with the building of the new Pentucket Middle High School." Requires 2/3 vote.

Article 3, omnibus budget changes. He copied the same language used for the Article in the spring, so it says, "I move that the amounts of money set forth in the printed report of the Finance Committee for the October 17, 2020 Special Town Meeting be appropriated as amended hereby for the several purposes therein itemized, each numbered item being considered a separate appropriation, and that the same be expended only for such purposes, that the sum of \$234,760 be deducted from the total line item budget adopted by the motion pursuant to Article 3 of the Annual Town Meeting held on June 27, 2020, and that the Town raise and appropriate the sum of \$16,303,921 for the total line item budget for fiscal year 2021."

With regards to this Article, Selectman Parker asked whether this is the point where specific mention should be made of the warranty and maintenance plan being a 5-year plan where the wording has to be incorporated in the Article. Town Counsel McCarron suggested that a hold be offered on that Article and that an amendment be added that the Town be authorized to enter into a 5-year warranty pursuant to that budget for the warranty.

Article 4, "I move that the Town transfer the sum of \$220,000 from the Assessor's Release Overlay Reserve account," but Stephanie suggested to call it the Overlay Reserve Account, "to reduce the fiscal year 2021 year tax rate."

Article 5, "I move that the Town vote to appropriate in anticipation of Water Department revenue, the sum of \$14,920 for insurances."

Article 6, "I move that the Town transfer from the Stabilization account the sum of \$240,000 to purchase a new dump truck with plow and spreader, to replace the 2008 International dump truck, with the same or compatible equipment, and dispose of the existing dump truck in accordance with the Town policy for disposal of surplus income. Any remaining funds will be closed off to the undesignated fund balance at the close of fiscal year 2023."

Article 7, "I move that the Town vote to extend the sunset clause for the purchase of a new Fire Department rescue vehicle, as adopted under the motion for Article 18 of the Annual Town Meeting on April 29, 2019, for a period of one year, until June 30, 2022."

Article 8, "I move that the Town amend sections of the West Newbury zoning bylaw, as set forth in the Appendix B, 2020 Special Town Meeting Article #8, pages 8 through 12 of the Finance Committee booklet, October 17, 2020."

## **TOWN MANAGER UPDATES**

### **F. Update on Site Testing at Coffin Street Site; Correspondence with Developer, Conservation, MassDEP:**

Town Manager Jennings updated on this item. (See Exhibit F, pages 66 through 72 for information) Stated that early last week, the developer mobilized equipment out to the site to do testing for potential viability for private wells. Explained that there are exemptions under the Wetlands Protection Act for certain testing if it is outside of defined resource areas or properly witnessed. Did have MassDEP on site on Tuesday.

Frustration is that the developer has declined repeated requests to provide our Conservation Agent access to the land, which is disappointing. The other open question is, because the resource area delineations have not been formally acted upon by the Conservation Commission, there's not a definitive record as to where the delineations are, which makes it more difficult both for the Town to effectively enforce its resource protections, but also for the developer to know where those are.

Town Counsel McCarron explained that with regards to risk, the developer is prevented from altering the wetlands, and if any work that he does alters the wetlands, he would be subject to an enforcement action to remediate the problem. Town Manager Jennings explained that the Con Com is meeting and looking at this, but bottom line is, we're aware the work is going on, have our ear to the ground in terms of what's happening, and Conservation Agent has been in touch with MassDEP and we're continuing to request access.

But he thinks that in his opinion, the time has come that he'd like to see the Commission go ahead with the ANRAD (Abbreviated Notice of Resource Area Delineation) to open that and to define where those resources are, there's a public interest that would be served by doing that, and if it gets to be winter and snow on the ground, would be unfortunate to let the window close.

Selectman Kemper inquired as to how the process is determined for where the wetlands are. Town Counsel McCarron stated that the Commission would determine where the wetlands are. The Commission makes its own independent review with expertise or by themselves, determining vegetation, soils, they show where it is, and if the developer is dissatisfied with the Commission's decision, he has the right to appeal that decision to the Northeast Region of DEP, and DEP would come out and make a determination. If they weren't satisfied with that, they would have to take it to an administrative judge.

Selectman Kemper inquired as to whether we have any authority to get on the land. Town Counsel McCarron stated that the only way to go onto the wetlands is either go pursuant to the application itself, as part of the hearing process, or obtain an administrative warrant from a judge suggesting that you want to go, and it would be like any other warrant, because have a reasonable belief that there's a problem.

### **G. CARES Act Quarterly Report Submitted 9/25/20; Recent Guidelines for Next CARES Act Expense Projection Filing Due October 30, 2020; Next Cost Reporting Report Due on November 13<sup>th</sup>; and October 15<sup>th</sup> Deadline for Submittal of FEMA Filing for Costs Incurred Through September 15, 2020:**

Town Manager Jennings updated on this topic. (See Exhibit G pages 73 through 103 for information) Stated each is a multi-step process, initial submittal in June had to provide both known and estimated COVID related expenses from the start of the pandemic through the end of the calendar year, did that at the time.

Anything that is assumed to be FEMA reimbursable, the CARES Act would only pick up 25% of those expenses, and part of the commitment you make is that you will seek FEMA reimbursement for the balance of the 75%. So, submitted the initial CARES Act certification in June, and the quarterly report was due 10 days ago on how those monies were spent, so put that in timely, and are now working toward the second phase of cost certification for CARES Act, which is everything from July 1<sup>st</sup> to the end of December, and just as the June submittal, it's a combination of known expenses tracked on a current basis, as well as projected expenses.

Second phase of CARES certification is October 30<sup>th</sup>, but in the meantime, just learned last week that the deadline for the FEMA filing is October 15<sup>th</sup>, so started work on that in July for every cost through September 15<sup>th</sup>, so working to take the data from CARES and put it into the format that FEMA requires.

What was put in through June, got around \$8,600 with the balance of those actual expenses expected to be reimbursed from FEMA, which as of now, a little over \$20,000.

#### **H. Update on Contract Status with Architect/Designer for Preservation and Restoration of the Soldiers & Sailors Memorial Building:**

Town Counsel McCarron updated this section. (See Exhibit H pages 104 through 125 for information) Stated that Mark Rich at KP Law gave draft last week. They both went over it, he had some suggestions. He has forwarded the input to him and he has a conference scheduled with him tomorrow to wrap up what we want to send it on to the designer tomorrow.

#### **I. Recent Damage to Animal Control Officer Vehicle; Pending Insurance Claim:**

Chairman Archibald updated that with regards to the vehicle, West Newbury is responsible for the vehicle in the joint agreement with the City of Newburyport for animal control services, so this is our problem.

Town Manager Jennings explained that the vehicle was damaged in a parking lot with high granite curbs, the vehicle took a sharp turn and hit one of the curbs. Stated the photos didn't look bad, but when it got to the repair shop and the insurance company sent their appraiser out, notified us that it was a total loss. Have not yet gotten the complete appraisal report, expected that by the end of last week.

Did get a note from the insurance rep today saying will get it anytime. Until we receive that, not sure what the total settlement will be, meaning the total amount that insurance would pay, but did speak to her and they're going to cover the replacement cost, not the depreciated cost of the actual vehicle. Hope that it's going to be enough to buy a new vehicle since nothing is budgeted toward a new vehicle.

**J. Preparation for FY20 Audit:**

Town Manager Jennings stated that the auditor firm will be here beginning the week of October 19<sup>th</sup>, right after Town Meeting, so the Finance Department has been hard at work going back to June, which is a huge focus for closing out the year. Should be on track where we need to be for October 19<sup>th</sup>. Have been some challenges closing out the year but working on it every day and should be in good shape.

At that point, can schedule a presentation of the audit once we have an estimated time of when that will be done. Typically, the books would be formally closed this fall, but sometimes takes a little longer for the manager letter to get all worked out, but the books will be closed timely to get free cash certified and do all the required findings with MassDOR.

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

Selectman Kemper asked if he could put on a future agenda, scheduling of mowing of Town fields, discussion about that at our next meeting. Will talk to Wayne about that and can send information.

With regards to a meeting before Town Meeting, 9:30 on Saturday at the Bandstand.

With regards to the Special Town Meeting, Town Manager Jennings stated all is good for October 17<sup>th</sup>. If the rain date is needed for October 18<sup>th</sup>, need to keep the meeting proficient since there is an Eagle Scout recognition ceremony scheduled for the Bandstand to begin at 1:00 p.m. and would be required set-up for that and the organizers would like to have access around noon.

**Motion was made by Selectman Kemper to adjourn the meeting at 8:09 p.m. Seconded by Selectman Parker.**

**Yes 3, No 0**

Respectfully submitted,

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