



**Town of West Newbury
Board of Selectmen
Monday, March 29, 2021
381 Main Street, Town Office Building
www.wnewbury.org**

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2021 APR 27 AM 9:34

Minutes of Meeting

Open Session: 7:05 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: 924-5131-8343

Passcode 260917

Or from computer, tablet, or smartphone:

<https://zoom.us/j/92451318343?pwd=dDBiUIRVU1JERUFhL09abzhZdnpsZz09>

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 7:05 p.m. by Chairman David Archibald.

Participation at the Meeting:

- ❖ Board of Selectmen: David Archibald, Richard Parker
- ❖ Town Manager, Angus Jennings
- ❖ Town Clerk/Counsel & Procurement Officer, Michael McCarron
- ❖ Assistant to Town Manager and Finance Department, Jennifer Walsh
- ❖ Stephanie Frontiera
- ❖ KC Swallow
- ❖ Police Chief Jeff Durand
- ❖ Wendy Reed
- ❖ Maureen Lynch

- ❖ Kara Kosmes
- ❖ Molly Hawkins
- ❖ Tom Atwood
- ❖ Kathy Feehery
- ❖ Deb Hamilton
- ❖ Judy Mizner, Dawne Fusco, Molly Hawkins, Conservation Commission

Announcements:

- Virtual Arbor Day Celebration, Friday, April 30th and Saturday, May 1st. (See page 2 through 3 for details. Also see Tree Committee webpage for details.
- Town-Wide Cleanup in celebration of Earth Day, Saturday and Sunday, May 1-2.
- Town Election Monday, May 3rd, 7:00 a.m. to 8:00 p.m. Annual & Special Town Meetings: Saturday, May 22, 2021 (time TBD) (See pages 4 through 5 for information)
- Reminder to subscribe for e-mailed Town new/announcements at <https://www.wnewbury.org/subscribe>

REGULAR AGENDA

A. Request for Appointment of Matthew Dixon as Reserve Police Officer:

Police Chief Durand stated that Matthew lives in West Newbury, a recent graduate of the part-time academy, also from Merrimack College. (See Exhibit A, pages 6 for information) Also stated that he has a lot of availability, done well on his interviews on his testing, and would like to have him appointed as a reserve officer.

Matthew Dixon stated wants to thank everyone for the opportunity and stated he is very excited to serve his community and join the Police Department.

**Motion made by Selectman Parker to appoint Matthew Dixon as a reserve police officer.
Seconded by Chairman Archibald.**

Yes 2, No 0, (Kemper not available)

**B. Presentation of Whittier Tech FY22 Budget and Potential School Building Project,
Superintendent Maureen Lynch and Business Manager Kara Kosmes:**

Chairman Archibald thanked Superintendent Lynch and Business Manager Kosmes for coming. Stated always enjoy hearing what's going on, it's very enlightening, and thank them for taking the time to do so.

Superintendent Lynch reviewed the finances and plans for FY22. (See Exhibit B, pages 7 through 11 for information) She stated that it's always good to have an understanding about this time last year and what were looking at as a budget, what happened throughout the months of

March and April and where we are now. Explained further in detail about the budget, current programs, and future plans.

Chairman Archibald inquired into the building project. Superintendent Lynch explained what the plan is and the feasibility study, referring everyone to the website to follow the building process, which will be posted soon. He also invited her to explain to the public how to apply for their school and what programs are offered and that they can also visit the website for information. She explained their programming offerings and advised everyone to contact her office if they would like to learn more about their programs. Chairman Archibald thanked them for their very informative presentation.

C. Special Event Permit Application: Horse Trials, Sunday July 11 and Sunday, October 10, and Adventure Trail Day, Sunday, September 12, West Newbury Riding & Driving Club:

Kathy Feehery explained this request. (See Exhibit C, pages 12 through 15 for information) Explained that the events on July 11th and October 10th are the usual Pipestave Hill events. Not sure what the number of participants will be this year due COVID requirements but hoping to run an event as in years past since it's a major fundraiser for their club and have been hosting this event for 35 years.

Town Manager Jennings inquired as to whether there was a discussion at the latest Parks & Rec meeting. Ms. Feehery stated that she didn't attend so she wasn't sure. Deb Hamilton stated that really needs to have exclusive ability to park horse trailers and to use the whole area for adventure trail, so sent letter requesting exclusive use of the area, which is only used exclusively the three times during the year, but club members do clean-up and trimming in the area, as well as donating funds to Essex County Trails Association, and has given at least \$1,000 per year for 15 years since running the event, and in return, ECTA has underwritten the Coffin Street Bridge, the Chase Street Bridge, did fill along the river, etc.

Chairman Archibald stated that the BOS had discussed with Park & Rec whether the issue of having two events at the same time on those weekends, and Park & Rec was under the impression that there were no issues and things could happen very well simultaneously. Deb Hamilton stated that they succeeded in putting things together the two years in a row but that they were anxious and stated that it's hard to predict with horses and that things are not always ideal.

Selectman Parker stated that he feels that somehow, we may have dodged a bullet and maybe that the event should be exclusive. Chairman Archibald stated that he agreed that it's not asking a lot, and they should be able to have the three days set aside for events, but feels that right now, it's in Park & Rec's hands until and if the BOS has to arbitrate. Town Manager Jennings stated that he's not sure of what came out of Thursday's Park & Rec meeting, but that the BOS could act on the special event permits in front of them but let that play out over the next couple of weeks with Park & Rec and if they didn't deal with it, see if can come to an agreement.

**Motion made by Selectman Parker to approve the Horse Trials on July 11th, the Adventure Trail Day on September 12th, and the Horse Trials on October 10th at Pipestave Hill.
Seconded by Chairman Archibald.**

Yes 2, No 0 (Kemper not available)

D. Presentation of Proposed Wetlands Bylaw – Conservation Commission:

Judy Mizner updated on this topic. Stated had a public hearing at their Conservation Commission meeting a couple weeks ago and knows that questions were sent and were responded to. Chairman Archibald stated just received the comments back, and there was a detailed discussion regarding the previously submitted questions by the BOS that were answered earlier by Con Com. (See Exhibit D, pages 16 through 38 for information) There were questions by BOS members which were answered in detail by members of the Conservation Commission. Town Manager Jennings stated that there will be another hearing next Monday, and Ms. Mizner stated that these topics will be on the agenda for further discussion.

E. Discussion of Changing Designation of Board of Selectmen to Select Board and Initiating Process to Formalize This Change Administratively and in Law:

Chairman Archibald updated on this topic. (See Exhibit E, pages 39 through 44 for information) Stated has been informed that as the Board of Selectmen is the terminology used in the Town Manager legislation, that would have to formally change that designation through an act that was passed by the legislature. But in the interim, as an act of policy, would make a motion to refer to the BOS as the "Select Board" and get the process underway to change it through an act that will have to be passed by the legislature.

Motion made by Selectman Parker that, "In accordance with Section 4(c) of Chapter 97 of the Acts of 2017, that it be the policy of the Town to use the following terms in connection with this Board; The Board of Selectmen shall be referred to as "the Select Board," a member of the Select Board shall be referred to as "a Select Board Member," and since the Town Manager Act already refers to a "chairperson," (Section 4(b), "...shall annually elect a chairperson..."), that aspect is already addressed." Seconded by Chairman Archibald.

Town Manager Jennings stated that Town Counsel McCarron advised that as a matter of policy, the Board could vote the change tonight, but recommends that on any official documents, such as a deed, a bond, or a Town warrant, unless and until the legislation is changed, that those documents would continue to say "Board of Selectmen."

Upon questioning about the procedure by Town Manager Jennings, Town Counsel McCarron stated that in order to make this change, Town Meeting would first have to authorize the Board of Selectmen to propose the change as a home rule petition under the home rule petition process, and from there, the Select Board would send in a proposed draft legislation to the legislature, and since this has been done by many other communities, he wouldn't expect there would be much resistance to adopting it. Selectman Parker inquired as to whether other things could be included in the same petition, and Town Counsel McCarron stated that it's their petition, so could include whatever terms they want and would definitely make sense to do as much as you can. Suggested that a petition could be drafted for presentation to the Special Town Meeting in the fall.

Yes 2, No 0 (Kemper not available)

Town Manager Jennings would be able to change the letterhead, update the website, and other changes right away, so will start working on that.

F. Notification of Recent Change to Massachusetts Election Law, Mike McCarron, Town Clerk/Counsel:

Town Counsel McCarron updated on this topic. (See Exhibit F, pages 45 through 60 for information) Stated that last year when the emergency COVID legislation was passed, changes to Town elections were granted, and in this case, moved the Town election from its May date to June 3rd last year and had early voting. The legislation was to expire on March 31st, but recently, the legislature and the Governor signed a new bill extending all COVID special legislations until June 30th.

So, the Town could, if it desired, move the scheduled May 3rd election to another date prior to June 30th, and usually absentee ballots are only available to someone who is not going to be available to vote in Town, but now, early voting is applicable to anyone, so can apply for early voting by mail with application on the Town website under the Town Clerk's page, paper applications that are in the vestibule if someone wants to pick it up, the application can be mailed to Town Counsel, can drop the application off in the tax payment box in the vestibule, which is open 24/7, or can sign the application, scan it, and e-mail it to the Town Clerk by the Tuesday before the election by 4:30, and an early ballot will be mailed to them, which would have to be returned to the Town Clerk by 8:00 on election day, May 3rd.

His recommendations are that the date of the election is not changed. One of the reasons that it was changed was that election workers were reluctant to participate but did get college students who worked all day to make sure had a full election last year, but since many election workers are now fully vaccinated for COVID, has recruited them with no problem. Will still put in social distancing, separation of booths, PPE available, request people to wear masks, etc. but sees no reason why can't continue to have the election date on its originally scheduled date. Selectman Parker inquired as to the house, which were reported as 7:00 a.m. to 8:00 p.m.

G. Proposed Revisions to Tax Collections Finance Policy:

Town Manager Jennings updated on this topic and reviewed the policy in the packet. (See Exhibit G, pages 61 through 63 for information) Stated that this is one of the policies that came out of the work that the Board did with the Mass Department of Revenue, Division of Local Services, which brought forward a tax enforcement policy for adoption earlier this year, which writes a lot of what state statute requires, but now has it all in one place and step-wise.

Stated that the one thing left out of the policy that was voted back in February was the section on tax title payment agreements because wasn't aware or hadn't made a connection as to whether the Town had opted into that statute, Mass General Law, Chapter 16, Section 62A, and subsequently Town Meeting did approve that statute in the fall of 2018, so that's already on the books in West Newbury, so the recommendation before the BOS is to now amend that tax enforcement policy to build in Section F, outlining tax title payment agreements.

The language is largely from the recommended policy that came from the Department of Revenue but did add in some local language such as regarding the Elliot Funds. The section that's highlighted is really the one at a staff level wanted to highlight as a policy question. The template from MassDOR reads that for taxpayers to fully comply with their payment agreements, the Treasurer/Collector will waive 50% of the interest accrued under tax title accounts, so highlighted that to see what number that the BOS would like, understanding that the interest

owed could into the thousands of dollars, so waiving 50% could be a significant benefit to the taxpayers who could be in financial hardship. Further discussion was held on this topic.

Motion made by Selectman Parker that Section E be modified as to the interest rate to read, "The Treasurer/Collector will waive 50% of the interest accrued under tax title accounts," in the last sentence, page 62 of the packet. Seconded by Chairman Archibald.

Yes 2, No 0 (Kemper not available)

H. Discussion of Potential Revisions to Bereavement Leave Policy (Sec. 5.4 of Personnel Policy):

Chairman Archibald updated on this topic. (See Exhibit H, pages 64 through 66 for information) Stated would like to revise the Bereavement Leave Policy for all Town employees.

Town Manager Jennings stated that under the personnel policy, wouldn't be voting any change tonight but would be giving direction on what change would like considered at a public hearing, which would then be posted in accordance with the personnel bylaw for all employees to review. So, as long as could get the notice posted for the next couple of days, that could be for the next BOS meeting in two weeks, then that would be the hearing at which it would or would not be voted.

So, question is, assuming want to go forward with some changes to the bereavement leave as spelled out in Exhibit H, or want to look at bigger re-write, which sample was included from a different town. Selectman Parker feels should be as simple as possible right now since talking about doing a more general review of the personnel bylaw, so might be better to do a simpler version now, and at a later time, do a more substantial revision as other changes are done, which Chairman Archibald agreed with. Further discussion was had on this topic as to which parties should perhaps be included.

Chairman Archibald stated that in the posting, it should be changed to say, "Granted by the Town Manager," and also addition of "parents-in-law," but not sure about adding anything else at this point, and further discussion was had on this issue also. After discussion, it was decided to add parents-in-law and brother and sister-in-law. Town Manager Jennings stated that he will post that and should be able to get it on for the April 26th meeting.

I. Updates Regarding Draft Annual and Special Town Meeting Warrant Articles:

Town Manager Jennings updated on this topic. (See Exhibit I, pages 67 through 82 for information) Stated it's mostly informational but did want to point out the \$85,000, reviewed that with the Town Accountant, and both agree that could be removed from the warrant because the amount voted last June hasn't been touched and didn't have a sunset date, so that will cover for any debt service incurred in FY22, if any, and wouldn't anticipate that we may have debt service in FY22 because the first bill wouldn't come due until a year after the debt is issued, and feels it's improbable that will issue debt by the end of June. Further discussion was had on this topic, and upon discussion, it was decided to move Article 15 from the draft warrant.

KC Swallow then presented a list of articles that she feels would be amenable to be putting on a consent agenda. Chairman Archibald suggested she present them now and everyone can go over them for the next meeting. Discussion was had as to how this would work at the Town Meetings.

KC Swallow stated that for the Special Town Meeting, articles that would be amendable to this treatment would be 5, 6, 7, 8, and 10, with 7 and 8 requiring a 2/3 vote. For the Annual Town Meeting, articles would be 3, 4, 7, 8, 10, 11, and 26, with 3 being a 2/3 vote. Selectman Parker stated that he believes that 3 should come off. Further discussion was then had on this topic with regards to what should be added or shouldn't and how the Fin Com feels about this.

With regards to the 2/3 vote, if some articles are contained in that, the entire thing would require the 2/3 vote. Chairman Archibald feels shouldn't lump those types of things together, and Town Counsel McCarron stated that some of the smaller things at the Special Town Meeting might require a 9/10 vote if it's a previous year, and discussion was had regarding this topic.

With regards to the Annual Town Meeting, Town Counsel McCarron questioned whether Article 9 should be put before Article 2, and discussion was had on this topic, and Town Manager Jennings stated will find a way to make the change.

Selectman Parker inquired as to Article 23 and Article 26, and discussion was had on these articles. Town Counsel McCarron brought up the topic of reducing the quorum, stated he wouldn't want anything now, but might be something to think about for a future meeting, and further discussion was also had on this topic.

J. Meeting Minutes: February 4, 2019, February 19, 2019, March 18, 2019, January 19, 2021, February 22, 2021; March 1, 2021:

(See Exhibit J, pages 83 through 124 for information)

Motion made by Chairman Archibald to approve the 1/19/21, 2/22/21, and 3/1/21 meeting minutes as presented. Seconded by Selectman Parker.

Selectman Parker stated that on the 1/19/21 minutes, page 102, question as to what should be done with that, not that there was a problem with the minutes.

Yes 2, No 0 (Kemper not available)

2/4/19, 2/19/19, and 3/18/19 minutes were passed over until Glenn is present.

Selectman Parker inquired as to a follow-up to the notation in the 1/19/21 minutes, were going to talk at some point about the Millpond dredging and management, and wasn't sure that was done, but Town Manager Jennings stated that he circulated hundreds of pages of documents and that it was talked about.

TOWN MANAGER UPDATES

K. Update on FY22 Budget Process and Finance Committee Meeting Schedule:

Town Manager Jennings updated on this topic. (See Exhibit K, page 125 for information) Stated that upcoming meetings are Thursday, April 1, Monday, April 5, and Tuesday, April 13, so an agenda will be posted tomorrow for Thursday's meeting and finalizing the date for all sections of the budget review.

L. Soldiers & Sailors Memorial Building: Planning Board Continued Site Plan Review Hearing, April 6, 2021:

Town Manager Jennings updated on this topic. (See Exhibit L pages 126 through 132 for information) Stated he included e-mail discussion in the packet, but the big milestone is the continued Planning Board hearing next Tuesday. Feels this will go smoothly, everyone is well prepared, and there is an on-site meeting this Wednesday with the direct abutter that Wayne will be part of along with a landscape architect and the architect, so hopefully that will help to close the hearing process so the designers can get back on track with the calendar.

M. Issuance of RFQ for Affordable Housing Consultant, Responses Due on/by April 12th:

Town Manager Jennings updated on this topic. (See Exhibit M pages 133 through 135 for information) Stated did issue an RFQ last week for Affordable Housing Consulting Services, with a deadline of April 12th, so sent out to a number of vendors. Feels it's going to be a big help, just today got contacted by a condo association looking for advice on homeowner's association fees and how those are set for the affordable units and how are capital improvements handled within the condo association, and while was able to get a response, feels we're going to be a lot better off having a consultant on board who can devote the time to this.

N. Timeline for Anticipated Availability of Electric Vehicle Charging Stations at 1910 Building:

Town Manager Jennings updated on this topic. (See Exhibit N page 136 for information) Stated had the power outage on Friday for National Grid to install the new transformer, but they did not install a meter, so that is not yet active service. Were here twice again today, but still no meter. So, once the electricity is metered there, can activate the charging stations, hopefully this week but it depends on when National Grid finishes up their piece of it.

Once the EV charging stations are online, will post a news and announcement on the website and on Facebook so that people know that's a resource. Also talked to Charge Point today and advised them do want them to show up on the Charge Point maps, but made the decision not to do that with the Page School because it was a school, but for Town offices, feels it's totally fine to have it show up on the regional maps.

O. Middle Street Bridge Design and Permitting, Continued Con Com Review on April 5th:

Town Manager Jennings updated on this topic. (See Exhibit O, pages 137 through 140 for information) Stated did authorize the change order for the design services related to the addition of the stormwater treatment structures into the design, and corresponded last week with Mass Works because that's going to shift some of the money out of the construction budget and into

the design budget. Mass Works seemed to be okay with that. Just submitted the quarterly report today, so we'll get official approval to make that change, but their initial response was favorable. Hopefully, the Con Com process both here and in Newburyport will wrap up fairly soon so that project can go forward.

P. Page School Playground – Bids Received and Under Review; Update on Process and Timeline:

Town Manager Jennings updated on this topic. (See Exhibit P, pages 141 through 143 for information) Stated got bids back last Monday, the deadline for responses to the RFQ. Got three submittals, and Wayne and Mike have sketched out a good process to go through selection. He hasn't personally had a chance to look at the submittals yet but plans to go through them and be part of that process, and there will also be an opportunity for public involvement in the vendor selection, and once the vendor is selected, there will be additional input as the design is finalized for the playgrounds.

Q. Updates on Other Active Projects:

Town Manager Jennings updated on this topic. (See Exhibit Q, pages 144 through 154 for information) Stated included a number of recent items that weren't on an agenda, but to keep everyone up to date on some of the things going forward, such as efforts to get funding for the pedestrian crossing beacons on Main Street, there's an upcoming public hearing with the Board of Health on the changes to method of trash collection, which is something that has been of interest to the BOS.

Still working to get technical assistance from Merrimack Valley Planning Commission on the stormwater bylaw. Hoping that if they help us, might be able to withdraw or not go forward with the article proposing consulting funding for the bylaw, but it's too soon to know and that's why the article was included in the warrant, because may need to go to a consultant, but if MVPC can help, might be able to do without cost to the taxpayer, which would definitely be the preference.

In addition, Park & Rec Commission is right in the thick of a very serious effort to look at the field structure and usage, so they had a meeting Thursday night and will continue working on that, so just wanted to make everyone aware because it's great that they're tackling that, it's a tough set of issues, and hasn't been totally clear for a number of years how or why that's set up, so it's good they're going through that in a methodical way. Further discussion was had on this to pic due to questions by Chairman Archibald.

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

Town Manager Jennings stated should talk about the Town Meeting quorum question as well as the Memorial Day parade at the next meeting and rental contract.

Town Counsel McCarron stated that got back the Children's Castle lease, which is all signed and finished.

Discussion should be had with regards to waiting on the fire truck to get the double one instead of the single. Town Manager Jennings stated that the Board of Fire Engineers met Thursday night and decided to hold off on the \$500,000 truck purchase for next year, so will write that up and send it around to the Capital Committee, and they will investigate a combined

tanker/pumper, which would be more around \$700,000 to \$800,000 but could be in lieu of two separate vehicles that are around \$500,000 each, so he feels that is a good decision.

Chairman Archibald stated that hope is to have some of the representatives of the Con Com to talk about the wetlands bylaw at the next meeting.

Motion was made by Chairman Archibald to adjourn the meeting at 9:39 p.m. Seconded by Selectman Parker.

Yes 2, No 0 (Kemper not available)

Respectfully submitted,

Susan M. Lobie, Certified Electronic Transcriptionist
Office Solutions Plus
15 Marion Road, Salem, MA 01970

Approved by the Select Board 3-0 on 4-26-2021