



**Town of West Newbury
Board of Selectmen
Monday, June 22, 2020**
381 Main Street, Town Office Building
www.wnewbury.org

RECEIVED
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WEST NEWBURY, MA
2020 JUL 21 PM 12:08

Minutes of Meeting

Open Session: 7:03 p.m. by remote participation (see below)

Addendum to Meeting Notice regarding Remote Participation

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

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

GoToMeeting

Phone: (872) 240-3212

Access Code: 767-572-605

Or, from computer, tablet or smartphone: <https://global.gotomeeting.com/join/242554413>

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

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

Participation at the Meeting:

- ❖ Board of Selectmen: David Archibald, Richard Parker and Glenn Kemper
- ❖ Town Manager, Angus Jennings
- ❖ Town Clerk/Counsel & Procurement Officer, Michael McCarron
- ❖ Assistant to Town Manager and Finance Department, Jennifer Walsh
- ❖ Moderator KC Swallow
- ❖ Wendy Reed
- ❖ Nancy Keller
- ❖ Tom Atwood
- ❖ Kate Day
- ❖ Adam Stone
- ❖ Sandra Capo
- ❖ Bill Sullivan

Announcements:

- Vacancies on committees that do end of fiscal year summer work and looking for volunteers for the Fin Com and Capital Improvements Committee.
- June 23rd, 6:00 p.m., login information on Town Website. Having an informational forum about Saturday's outdoor Town Meeting. People will answer questions about warrant articles, budget, and how the meeting will work. (See page 2, Informational Flyer on Pre-Town Meeting Online Forum)
- Municipal Vulnerability Preparedness Listening Session will be held on June 25th, 7:00 p.m. Will review the process and the results. It will be explained what the process was to look at climate vulnerabilities and assess strengths, weaknesses, and how to address weaknesses or reinforce strengths, and the set of outcomes. The final report is on the MVP website. (See page 3, Informational Flyer on Listening Session: Climate Change Municipal Vulnerability Preparedness)
- Pentucket Arts Foundation drive-by arts festival has been cancelled. Instead, they are asking people to identify a place of culture within the community with meaning to them and ECCF is putting together a map of all cultural assets in the Towns, and you can visit www.pentucketarts.org to get all links. Deadline is June 30th.

REGULAR AGENDA

A. Approval of Sale of Bond Anticipation Notes (BANs) and Award of Interest Rate of Purchaser:

Related to funding for the water projects. Had bids and selected company, have to sign off.

Hilltop Securities has been managing the process in consultation with the Town Manager and Town Treasurer and awarded \$1.1 million bond anticipation note, subject to Board approval, to Piper Sandler & Co., based on 2% interest rate and premium just short of \$14,000. (See Exhibit A, pages 4 through 11 for information)

This will carry forward financing for the two water capital projects currently under construction, i.e. Brakes Hill water tank and new treatment building associated with bedrock well. Payable July 2021.

Motion made by Selectman Richard Parker to accept the vote for the bond participation notes as set forth on pages 4 and 5 of the Selectmen's meeting packet for June 22, 2020 and incorporated herein. Seconded by Glenn Kemper.

Yes 3, No 0

B. Discussion of Special and Annual Town Meeting and Special Town Meetings, Consideration for Reducing Quorum Requirements:

Chairman David Archibald explained discussion at the last meeting that a quorum of 40 be used for 2020 Town Meeting. (See Exhibit B, pages 12-13)

Motion made by Selectman Richard Parker that in accordance with provisions of Section 7 of Chapter 92 of the Acts of 2020, with the advice and consent of the Town Moderator, that the Board votes to change the quorum for the Annual Town Meeting, the Special Town Meeting No. 1, and Special Town Meeting No 2 to 40 registered voters. Seconded by Glenn Kemper.

Yes 3, No 0

Town Manager Angus Jennings explained that this vote is helpful with regards to improving the likelihood of going forward with Town Meeting and approval of an FY '21 budget and thanked all Selectmen for voting for this.

C. Review/Finalize Motions for Annual Town Meeting and Special Town Meetings with Town Moderator and Town Clerk/Counsel:

Discussion regarding approval of the Draft Motions for the Special Town Meeting. (See Exhibit C, pages 14-17) Moderator KC Swallow stated that she did read all motions and feels they are all appropriate.

Town Manager Angus Jennings advised that the Board has not taken a recommendation on the Citizen Petition article on Second Special Town Meeting. (See Exhibit C, p. 16)

Chairman David Archibald explained that the amount of money that the Citizen's Petition was requesting was to provide legal advice, consultants, etc., to Town related to 40B application was \$250,000 from free cash, but the Board can approve a lesser amount, that there was no agreement was made to a figure. Feels as stated, it's too much. Jon Witten advised that amount would not be needed and suggested \$40,000 to \$50,000.

Town Manager Angus Jennings summarized Jon Witten's opinion, walked through the stages of the process, described the amounts that might be needed at each stage of the 40B process, i.e. legal fees in the range of \$35,000 to \$40,000 should be adequate unless there's a possible appeal by the Town to the Housing Appeals Committee, costing an additional \$40,000. If further appealed to the Superior Court, could cost additional \$20,000. Estimated budget in the range of \$100,000 would be sufficient.

Motion made by Selectman Richard Parker to propose at Town Meeting \$50,000. Seconded by Chairman David Archibald. Motion withdrawn.

Nathan Kelley from Finance Committee suggested two ways a motion could be recommended, i.e. motion for \$50,000 for one year, sunset date of end of fiscal year 2021, but his suggestion is to recommend \$80,000 with a sunset date of end of fiscal year 2022 as it doesn't make sense to tie up free cash for years.

Town Manager Angus Jennings stated that given that the idea is to get everyone on the same page to streamline Town Meeting, he would recommend the Board spend time tonight talking about it, but taking a vote on Saturday once they have complete information, so as to not create confusion on the floor of Town Meeting.

Discussion regarding review of article a year at a time or two years being better able to assess legal standing and that \$80,000 to \$100,000 with a two-year sunset clause would be smarter since legal development will happen in the next two years. It was suggested amount has to come from petitioner, they have the right to amend the amount upward or downward, and suggestion was made for first motion to be made by representative of petitioner's group.

D. Review of Town Meeting Online Informational Forum, June 23rd, 6:00 p.m.:

Discussion regarding informational letter to be sent to Town regarding format of Town Meeting (See Exhibit D, pages 17-18) and format for running of Annual Town Meeting and an explanation by Moderator KC Swallow of how she plans to run the meeting. Also discussion regarding set-up of the location, etc. Recommended that people follow along on the website and go to the Town webpage regarding information on Town Meeting.

Discussion regarding committees making reports at the Town Meeting, i. e. Open Space Committee and Conservation Commission on purchase of Middle Street property, playground, and Energy Advisory's Committee's recommendation on electrical charging stations. Not going to limit comments, but they should be limited. Letter sent from Moderator KC Swallow states that there will be no reports, and everyone will be allowed two minutes for comments.

E. Report by the Massachusetts Office of the Inspector General Re: Selectman Kemper and Money Owed to Town:

Chairman Archibald stated that because both he and Selectman Kemper are mentioned in the report, defers to Selectman Parker to chair this part of the meeting.

**Selectman Glenn Kemper made a motion to have Richard Parker chair Section E.
Seconded by Chairman David Archibald.**

Yes, 2, No. 0, Parker abstain

Selectman Parker stated that he will read the introduction, conclusion, and recommendations in the letter from the Office of the Inspector General, (See Exhibit E, pages 19-25), then Selectman Kemper and Selectman Archibald would have time to speak, limiting to three minutes. Asked that if anybody has a comment, to put it in the chat and they'll try to address it.

Selectman Glenn Kemper stated that he read the report which did not sit well with him and the situation he put the Town in. When it came to light, he owned it, should have owned it earlier, his fault. His intention always was to make the Town whole. Sorry to the Town, learned a lesson, and feels he's a better Selectman for it.

Stated that he has less than a year left, but when he got up to reelection this time, this was his end game was this term, so he will not be a Selectman any longer going forward after the next Town election.

Regarding the interest free loan portion, has asked and wants to pay for that so that the Town is made whole. Complicated and hard to get to a number, but he's willing to pay an outside person to get to that number because of the bankruptcy and legally, hard to get to a number legally, but he wants to make sure that it's a whole number.

Chairman David Archibald stated that he takes issue with the report in that Mr. Anderson and he let down their fiscal responsibilities. States he's always taken those to the fullest, respects every taxpayer dollar, and this whole episode has been without question the worst experience of his time as a Selectman. Lost a lot of sleep agonizing over the problem, and he would like to have other things to say but doesn't want to go on too long.

One of the things the report says is that they did not make an attempt to get the money, which is completely not true. In 2017, when they learned of the full extent of the problem, he went to Selectman Kemper since it was going to be mentioned in the audit. Within a week after that, Selectman Kemper had paid \$2,000 towards the debt and thought the problem would begin to be resolved. He assumed wrongly in hindsight that payments would continue, and none were forthcoming after May of 2017.

Feels the report unfairly shed blame on Mr. Anderson and himself in an incredibly awkward situation and was even worse awkward situation for Town employees and he's in no way blaming them, completely felt it wasn't their problem either. Tried to get the issue resolved repeatedly, took it extremely seriously even though the report said they didn't do anything about it. No one except him ever mentioned this issue in a public forum, tried to get it resolved two years earlier. He and Mr. Anderson were castigated for not acting forcefully enough while at the same time, they were trying to treat a colleague with dignity. Unfortunately, he was ignoring them and the Town.

Selectman Kemper stated that he agreed with everything that Chairman Archibald said, and stated that he was sorry.

Selectman Parker stated that when he came in, he saw what was going on and it was never clear to him what the correct resolution was. He understands the difficult that Selectman Archibald and Mr. Anderson were in and has some sense for the personal difficulty that Selectman Kemper was in.

Stated that he's lived in town for 24 years, and this is the second time he's seen an instance with a Selectman where there was probably reasonable cause for the Selectman to be forced to resign, but there is no provision for that. He's not asking that of Selectman Kemper at this point, but he's suggesting that the Town needs to wrap its head around the issue and feels that for the health of the Town going forward, need to figure out a way to deal with inappropriate behavior on the part of a Selectman and have the means to remove them if they believe it's necessary.

Selectman Kemper again stated that he respects everything that was said and was sorry to put him in that light because he did have to handle it. He owns and it doesn't want anybody else dragged into it and tied in with him. Also stated that Chairman Archibald and Mr. Anderson did come to him. There are other non-factual things in the report, doesn't want to debate it, but that is totally wrong since they both came to him.

Town Manager Angus Jennings stated that comments came through chat from Tom Atwood, Jen Solis, and Wendy Reed, which were all read. (See all comments sent via chat, appended hereto to these Minutes)

Chairman Archibald suggested that the Board review and strengthen the controls and policies that have been put in place. Those accounts are reconciled monthly now, that wasn't always done, etc., so that the Town is confident in the future that this can't recur.

Town Manager Angus Jennings stated that there are two policy things that have changed since then, and he stated that, (1) Anyone on health insurance who is not subject to withholdings, (which is pretty rare, i.e. elected officials receiving stipends, which is a benefit by virtue of state statute, not a local benefit, is entitled to be on the community health insurance), will be removed from health insurance if they fall into arrears by two months. This policy was not in place in the past, which put staff in an awkward position where the account was overdue.

Secondly, under the Town Manager form of government, his position signs the accounts payable warrants, not the Board of Selectmen. Prior to the Town Manager forum, it was the Board signing weekly or bi-weekly warrants. So, he feels that addresses the issue of potential conflict of an elected official signing off on payment and by nature, there's more communication between the Treasurer/Collector and Town Manager since they work together on a daily basis than the Treasurer/Collector and Board of Selectmen, so this results in the financial management having a better finger on the pulse of what's going on both in expenses and revenues.

A question was asked regarding calculation of the interest payments. Chairman Archibald stated that you can't charge interest payments retroactively on something if the person had not been informed of such beforehand. Going forward, interest can be added, and since there was no policy in place, one can be put in. Selectman Kemper stated that if they come up with a number, he'll make a donation to the Town, even though he can't legally be given a bill for the interest.

With regards to the question of the traumatic situation having to have gone through by Town employees, both Selectman Parker and Selectman Kemper stated that they would be happy to speak with any staff who was affected and apologize, as well as apologizing to Town Manager Angus Jennings.

Town Clerk Michael McCarron corrected Town Manager Angus Jennings' statement earlier, stating that an elected official isn't automatically entitled to be on the Town's health insurance, they would have to earn a minimum stipend of \$5,000, of which no elected official on the Town of West Newbury does. There is a possibility that an elected official could be on the Town health insurance if the Board of Selectmen votes to do it. In 2010, they did allow that, but right now, there is no elected official who is on the Town health insurance.

Chairmanship passed back to Chairman Archibald.

F. Personnel Reappointments for FY21:

Staff reappointments were discussed, routine votes, and Town Manager Angus Jennings referred everyone to the supplemental attachment e-mailed earlier, one page, which lists 3 police officers whose term would run through the current fiscal year (each of them, 3-year term with reappointment to the end of FY23); one-year reappointments for 6 police reserve officers; dispatch, 1 proposed reappointment of a full-time dispatcher for a 3-year term, and 7 1-year reappointments of part-time dispatchers.

Outside the public safety realm, 3 appointments of ADA Coordinator, Assistant ADA Coordinator, each for one year, and proposed 1-year reappointments of DPW Director, as well as Town Clerk Michael McCarron in his 7 appointed capacities.

Motion made by Chairman Archibald to reappoint all above reappointments (names, departments, positions, and terms read). Seconded by Selectman Kemper)

Yes 3, no 0.

G. Board/Commission/Committee Appointments and Reappointments for FY 21:

Discussion regarding reappointment on all of the above. (See Exhibits G and H, pages 26 to 35) Suggested that everyone just be reappointed, but there are some people requesting not to be reappointed.

Selectman Kemper suggested that committees are appointed, but don't have any charges or direction and the committees come with a life of their own, asking for support. Chairman Archibald suggested that all committees have a group meeting with all boards, committees and commissions to discuss what should be handled by who.

Motion made by Selectman Parker to make any applicable appointments or reappointments exactly as shown (See Exhibits G and H, pages 26 to 35) and the completion dates in all cases extending to June 30th instead of June 15th of the same year as shown in the packet. Seconded by Selectman Kemper.

Yes 3, no 0

H. Designation of Board of Selectmen Representatives to other Boards and Committees for FY 21:

Designation of Selectmen's representation to the different committees as follows: Selectman Parker, EAC, CIC and CPC; Selectman Kemper, School Building Committee, Cable Advisory Committee; Chairman Archibald, Investment Advisory Committee.

Motion by Chairman Archibald to nominate Selectman Parker for the EAC, CPC and CIC committees. Seconded by Selectman Kemper.

Yes 2, no 0 (Parker abstained)

Motion by Chairman Archibald to nominate Selectman Kemper for School Building Committee and Cable Advisory Committee. Seconded by Selectman Parker.

Yes 2, no 0 (Kemper abstained)

Motion by Selectman Parker to nominate Chairman Archibald for the Investment Advisory Committee. Seconded by Glenn Kemper.

Yes 2, no 0 (Archibald abstained)

I. Discussion of Overall Work Plan and Prioritization of Staff Efforts for Remainder of Fiscal Year:

Town Manager Angus Jennings led the continuation of the discussion started a few weeks ago, but really longer regarding the need for a clear direction for the Boards, Commissions, and Committees regarding staff structure and staff support. (See Exhibit I, pages 36 to 48)

He stated that there is no formal relationship, so everyone feels that they're not getting the support that they need, some get more, but that staff have been pulled in different directions about what their job is. Thinks there is a need for both Board, Commission, Committee structure and staff structure and how that all aligns.

Chairman Archibald feels that the Town has been stretched with time and resources and we need to think through new initiatives. States that he feels that Angus has a hard time saying no to people needing help and spends time assisting them, taking his time away from his own job responsibilities.

Selectman Parker stated that since he has spoken to Town Manager Jennings, he is concerned about the core finance aspects, at the same time trying to correct for errors stretching back years, and doesn't think in the finance area, not adequately staffed and can't keep up with current reality. Selectman Kemper feels that we failed or didn't go far enough with the Town Manager's position, and need to make improvements, i.e. job sharing.

Town Manager Jennings stated that it's difficult as Town Manager to be a resource to staff when he himself is under the gun every hour of every day. He tries to do that with everyone that comes to him, feels like he always finds a way, but it's suboptimal at best, he can't be all things to all people, so that's a core flaw in the design is that the workload is such that there is no slack, no down time since his first day on the job. Feels that finance and personnel in his view are two areas that are strapped on resources, without question.

J. Meeting Minutes – May 26, 2020, June 8, 2020:

(See Exhibit J, pages 49 to 69)

Motion by Chairman Archibald to approve the meeting minutes of May 26, 2020 and June 8, 2020. Seconded by Selectman Parker.

Discussion regarding June 8th meeting minutes, (page 66 of packet, page 13 of minutes), talking about warranty for the charging station. Rather than total cost of \$5,990, should say \$5,990 per location or \$11,098 per year per location. Over a 5-year period, commitment of \$11,098 per location per year, so two times that for the entire package.

Make sure it's crystal clear because in order to carry forward the Board's intent, it is going to require a hold on an amended motion of the DPW operating budget. Selectman Parker stated that he would re-forward the document, "Cellular Plan and Warranty Pricing Breakdown" from the vendor which shows the price structure, and he'll be specific as to which one it is, which is \$5.990 for five years, covers two charging stations at a single location for five years.

TOWN MANAGER UPDATES

K. Report on Anticipated Schedule for Newburyport City Council Consideration of Proposed MOU regarding Middle Street Bridge:

With regards to the bridge, Town Manager Jennings stated that they have continued correspondence with the Mayor's Office, provided them a signed copy of the MOU on the bridge agreement, the Mayor needs council authorization to sign the agreement, and have been notified that this will be an agenda item of the Newburyport City Council agenda, Monday, June 29th. Thinks it's going to be a procedural step, would go into committee process, at which point the more substantive discussions would happen. He will stay in touch with Mayor's Office. (See Exhibit K, pages 70 to 74)

L. Recent ZBA Approval of the new 40B Comprehensive Permit Rules and ZBA Call for Comments on Approved Rules for Consideration at a Public Hearing on Thursday, July 2nd at 6:00 p.m.:

Town Manager Jennings reported that the regs were adopted at Public Hearing on June 11th, so we do now have updated 40B regs. (See Exhibit L, pages 75 to 92) Board did receive some thoughtful comments a short time prior to the hearing. Wanted to give themselves time to review the comments but didn't want to not move forward on prepared draft, so voted to approve the regulations but scheduled second public hearing on Thursday, July 2nd, 6:00 p.m. to allow the Board to consider comments received and others that come in. He will send out approved regs to other permitting boards and committees to solicit input for public hearing.

M. Review of Proposed FY 21 Holiday Recognition Schedule:

(See Exhibit M, page 93) No comments.

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

- Update on minutes log
- Update on school building – effect on workload.

Motion was made by Selectman Glenn Kemper, seconded by Chairman David Archibald to adjourn the meeting at 10:06 p.m.

Yes 3, No 0

Respectfully submitted,

Susan M. Lobie, Certified Electronic Transcriptionist
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Approved by Board of Selectmen 3-0 on 7/20/2020