



## **Town of West Newbury Planning Board**

381 Main Street, Town Office Building

[www.wnewbury.org](http://www.wnewbury.org)

### **Minutes of Meeting**

**Tuesday, October 5, 2021**

**Open Session:** 7:00 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: Zoom Meeting Instructions:*

*Phone: 1+(646) 558-8656*

*Video Link: <https://us06web.zoom.us/j/85757777457?pwd=M1pacHptd3NVV3c3YkExcncGMlVCUT09>*

*Meeting ID: 857 5777 7457*

*Passcode: 132122*

*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.*

Chairperson Tim Cronin called the meeting to order at 7:00 p.m. by reading Governor Baker's Addendum to meeting, as noted above. Members in attendance were Ann Bardeen, Raymond Cook, Tim Cronin, Brian Murphey, Jake Cormier, all participating via Zoom Conference. Associate Member Deb Hamilton was not present. Each member of the Board introduced themselves.

#### **1. Review of Draft Stormwater Bylaw and Regulations**

Alex Weisheit of KP Law and Jennifer Hughes of the Merrimack Valley Planning Commission were in attendance. Select Board Chair Rick Parker, Select Board Member Wendy Reed, and Nancy Pau of 86 Middle street were also in attendance.

Cronin stated that the Board had previously reviewed the draft stormwater bylaw, therefore tonight's review should be fairly succinct. He asked for updates on recent revisions to the draft Bylaw. Cook displayed the draft on the screen for the public's benefit. Hughes stated that the draft includes revisions that have been made by the boards and commissions that reviewed it as well Weisheit and Town Manager Angus Jennings.

Cook stated that the Erosion and Sediment Control plan revision is a good update, and questioned the language "professional certified in erosion and sediment control". Some discussion ensued regarding the various certifications available that authorize professionals to prepare such a plan. Weisheit stated this is typical language that many communities use.

Cook scrolled through the changes giving everyone the opportunity to comment. Cronin asked that the “C” in the Impervious Cover definition be capitalized. Cook noted that the Planning Board is called out as the Stormwater Authority.

Cronin noted that criminal remedies for enforcement had been removed. Weisheit advised that there isn’t really a basis for pursuing this criminally. KP Law recommends keeping it as civil injunctive relief, where the Board would require that the violation be brought into compliance. He stated if they ignored the order, the Town could hire a contractor to complete it and then recoup the cost. He stated that the non-criminal disposition process involves daily fining and that whoever the Board designates as the agent would have authority to do daily fining.

Cronin noted that KP Law recommended that Town officials get permission from the owner or a court order to allow for entry onto the land, and asked for background. Weisheit noted that entering upon property without permission is legally identified as trespass. He stated that any reasonable developer or owner would grant access in order to obtain a permit. It is a general caution – a belt and suspenders approach. Murphey asked about what happens if access isn’t permitted. Weisheit recommended that at the beginning of the project, the owner should grant the Board and its authorized representatives access to the property for the duration of the permit. Weisheit suggested that it should be added to the application. Cronin stated it should be a condition of the permit. Weisheit suggested that language be added to the application to the effect of “refusal to grant access may constitute grounds for denial or revocation”.

Weisheit stated that the Town should confirm these regulations have been enacted - Ch 44 s 53g-1/2 regulations.

The Board then moved on to discussion of the draft Stormwater Management Regulations that Hughes and Weisheit had worked on.

Cronin asked if these are based off model regulations. Hughes stated they are based on the Neponset River Watershed’s model regulations and that both DEP and EPA have recommended them for use.

The Board reviewed the document page by page. The Board made grammatical and other changes to clarify the language and to ensure consistency with the draft Stormwater Management Bylaw. Some substantive changes and clarifications included:

53G-1/2: Select Board Chair Rick Parker referred to page 48 of the Subdivision Regulations under 6.6, “Employment of Outside Technical Consultants”, and stated there is a reference to MGL Ch. 44, S. 53G, as amended. He asked if MGL Ch. 44 S. 53G-1/2 is relevant to 53G. Weisheit stated that section 53G is different than the surety fund we’re talking about here. He stated that 53G is for hiring outside consultants, while 53G-1/2 is for requiring surety funds and to hold those surety funds in a separate account.

Lot Definition: Part of the model definition for “Lot” was removed and replaced with the definition of “Lot” from the Zoning Bylaw.

Enforcement: The Board has authority to designate the enforcement authority, who would more than likely be the Building Inspector.

Operation & Maintenance Plan (O&M Plan): Hughes asked about Section 8, #6 regarding ensuring ongoing compliance with the O&M Plan and whether the Board has a procedure for this. Bardeen stated that generally the Board’s oversight ends with completion of the project. Cook stated that oversight then passes on to another entity such as the Building Inspector or something else. Hughes stated there are sometimes issues when the developer hands off the operation and maintenance responsibility to a Homeowners Association (HOA). She stated that sometimes the Board will require that the developer fund the O&M line item in the HOA budget to ensure it continues.

Bardeen stated that ongoing discussion about staffing concerns her. This calls for a re-arrangement in the way we think about ongoing staffing. Cook, stated that the “forever” commitment to this has 2 implications; the first being staffing, the second being the perception about too much government oversight.

Nancy Pau, 86 Middle Street asked a question in the Zoom chat about whether this will be posted prior to Town Meeting. Select Board Member Wendy Reed stated that the bylaw would be posted, but not the regulations.

At the conclusion of the discussion, the Board thanked Hughes and Weisheit and the Town Planner for their efforts. They also acknowledged how smoothly the review has been so far.

Cronin stated that they still need to find out if MGL Ch. 44, S. 53G-12 has been accepted by the Town.

Hughes indicated she would update the drafts and distribute them.

*Documents Reviewed: Updated Draft Stormwater Bylaw and Regulations*

2. General Business items. There were no items to discuss.

**Adjournment:**

**Cook moved to adjourn the meeting at 8:55 p.m.**

**Seconded by Bardeen.**

**Roll call vote was taken, and the motion passed 5-0.**

Respectfully submitted,

Leah Zambarnardi, Town Planner