



**Town of West Newbury
Select Board
Monday, March 14, 2022 @ 7:00pm**
381 Main Street, Town Office Building
www.wnewbury.org
Open Session Meeting Minutes

Open Session: The meeting was called to order at 7:15 by Chairperson Parker.

Participation at the meeting:

Richard Parker, David Archibald, and Wendy Reed *Select Board Members*
Angus Jennings, *Town Manager*
James Blatchford, *Town Clerk*
Susan Dougherty, *Applicant for Appointment (Tree Committee)*
Christopher Bernier, *Newburyport Half Marathon Special Event Request*
Liz Armano, *Port Players*
Leah Zambarnardi, *Town Planner*
Tim Zessin, *Town Counsel*
John Dodge
Judy Mizner, *Conservation Commission Chairperson*
Michelle Greene, *Conservation Agent*
Carol Decker
Nancy Pau

Announcements:

- This meeting is being broadcast on local cable TV and recorded for rebroadcast on the local cable channels and on the internet. Meeting also accessible by remote participation (see agenda for details).
- Council on Aging meals, events and activities – see Town website for details.
- Call for other volunteers: current opportunities at <https://www.wnewbury.org/volunteer>
- Elected position on the Parks & Recreation Commission available. Deadline to pull nomination papers has passed, but candidates welcome to run a write-in campaign for the upcoming election.
- Reminder to subscribe for emailed Town news/announcements at <https://www.wnewbury.org/subscribe>

Regular Business

A. Request for appointment of Susan Dougherty to the Tree Committee

Susan Dougherty appeared before the Select Board for this request (see exhibit A pages 3-4 for details). Parker read a poem, entitled *Tree*, written by Dougherty. Dougherty expressed passion for trees and future plans of writing a book about the trees in town. **Parker made a motion to appoint Susan Dougherty to the Tree Committee through June 30, 2024. Archibald seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).** Jennings stated the Blatchford would send communication surrounding getting sworn in.

B. Special Event Permit Request – Newburyport Half Marathon, April 24, 2022

Christopher Bernier appeared virtually before the Select Board (see exhibit B pages 5-10 for details). Bernier stated the 800-1000 participants were expected to participate in the event and the same route would be used as the marathon from the previous November. Bernier stated that due to the same route, and similar number of participants from the November race, the West Newbury Police Department did not require additional supports other than the police details listed on the application. The Select Board and Bernier discussed the use of private streets, signage, portable toilets, and consideration of contributing a donation to a local non-profit organization. The applicant stated support of contributing a donation to a local non-profit group. It was noted a correction for the location of the portable toilets on the application would require correction as the street listed was incorrect.

Archibald made a motion to approve the Special Event Permit for the Newburyport Half Marathon, April 24, 2022, with the condition the portable toilets would be removed as soon as possible after the race, and the correction of the location of the portable toilets on application. Parker seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).

C. Request for fee waiver/reduction for rental of Town Hall for youth theatre rehearsals – Port Players

Liz Armano appeared before the Select Board for this request (see exhibit C pages 11- 17 for details). Port Players was described as a small youth performance organization, conceived 3 years ago, that had been brought to a halt for the past two years due to COVID-19. Armano stated the previous rehearsal location, the youth center in Newburyport, was unexpectedly condemned and the organization was looking for a temporary rehearsal space until a permanent location could be found. Armano requested a total of 7 Thursday evenings, from 5:30-7:30pm, in the Annex to accommodate auditions and rehearsals for a reduced fee of \$25 per evening. The Select Board compared waiving the first 6 dates, under the non-profit guidelines, and charging full price of \$180 for the seventh date. As the price difference was \$5, it was suggested either approve or deny the \$25 fee per day listed on the request form. **Parker made a motion to approve 7 evening dates requested. Archibald seconded.** Jennings stated the minutes would reflect the circumstances of this request to clarify the reduction of prices would not occur on a regular basis. Reed reviewed the policy for the rental of the Annex and stated the organization should be waived the first 6 days under the non-profit guidelines. After a brief discussion, Parker stated the fee would be \$180 as the first 6 dates fall under a non-profit organization guideline. **Parker asked if the second still stands. Archibald seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).**

D. Discussion of MBTA Communities legislation; potential One Stop grant funding to support evaluation; review of draft comment letter to State for submittal within public comment period (due by late March) – Leah Zambernardi, AICP, Town Planner; and Planning Board representative(s)

Leah Zambernardi appeared before the Select Board and presented a summary of the MBTA legislation and the zoning bylaw requirement (see exhibit D pages 18-32 for details). Zambernardi stated the legislation was a zoning district mandate, not a housing production mandate, and if the town did not comply with the legislation, it would not be eligible for state grant programs. Zambernardi presented the timeline of deadlines of each step for the implementation of the legislation and discussed the option of submitting an expression of interest to engage a consultant to provide technical assistance.

Tim Zessin, Town Counsel, appeared before the Select Board and discussed the minimum acreage required for the zoning district and how areas for non-residential use (i.e., wetlands, rights-of-way, recreation, etc.) within the zoning district would not count toward the acreage requirement. Zessin presented the draft comment letter for Select Board input before submission to the state. John Dodge addressed the Select Board and asked how the legislation related to affordable housing. Zessin stated this was not clearly defined. Discussion continued concerning the impact on schools and safety services with an increase of population if a multi-family development did occur.

The Select Board discussed co-signing the draft comment letter with the addition of comments surrounding affordable housing. **Parker made a motion for the Select Board to endorse the draft comment letter produced by the Planning Board. Reed seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0). Parker made a motion to submit an expression of interest for technical assistance regarding the MBTA legislation. Reed seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).** Zambernardi stated the town would receive a report regarding MS4 bylaws and would like to submit an expression of interest regarding stormwater handling. **Parker made a motion to support the second expression of interest regarding stormwater. Reed seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).**

E. Presentation of proposed Wetlands Bylaw – Conservation Commission representative(s)

Judy Mizner appeared before the Select Board and stated communication was received regarding the proposed Wetlands Bylaw and concerns that the bylaw would violate state statutes and constitutional provisions of the Commonwealth. Mizner reviewed the Constitution Amendment and Massachusetts General Laws that allowed for local communities to adopt bylaws with more stringent controls than the minimum listed in the state law. Additionally, the Attorney General would be required to review all bylaws adopted to ensure constitutional and statutory procedures.

Michelle Greene, Conservation Agent, and Mizner presented a slide presentation regarding the proposed bylaw and the area in which the bylaw would protect (see exhibit E pages 33-51 for details). Greene and Mizner stated the proposed bylaw was in line with other communities in the area and based on the Massachusetts Association Conservation Commission Bylaw Model.

The Select Board discussed potential constrictions on the rights of property owners, potential additional costs associated with property upkeep, the approval and appeals process, and the language used within the draft concerning incremental activity. Mizner stated the rights of the property owners were not in jeopardy and the bylaw would give the Commission the chance to review planned projects near protected lands/water sources.

Carol Decker appeared before the Select Board and raised concerns for previously exempt activities that appeared to have been removed from the bylaw. Discussion as to whether specific invasive plant removal could be added to the bylaw commenced. Nancy Pau appeared before the Select Board virtually and expressed concern that the strict regulations would cause an additional burden on residents and potentially deter some people from following the proposed protocols. **No motions were made at this time.** Jennings stated the draft bylaw was currently being reviewed by Town Counsel and a revised version would be available to the Select Board at the next meeting.

H. Review of the proposed warrant articles for Spring Annual and Special Town Meetings scheduled for May 14, 2022 at 9am.

Jennings reviewed the article numbered 23 in the packet (see exhibit H pages 63-70 for details). Wayne Amaral appeared before the Select Board and stated the DPW required additional space to complete projects and storage equipment. The space at the former Highway Garage could be utilized if repairs could be completed. Amaral stated the building was in pretty good shape but would need a new roof and the building could last another 10-15 years. Archibald questioned why the Select Board was cautioned to stop repairing the facility years prior. The Select Board discussed other items for repair listed within the proposed article. **No motions were made at this time.**

L. Cont'd discussion re Middle Street Bridge; recent change order due to MassDEP Ch91 permitting

Jennings presented the schedule of fee for services proposal from the BSC Group, Inc. (see exhibit L pages 94-98 for details). The Select Board discussed the minor modification fee listed on the proposal and how to move forward in the process in order to start the project as soon as the funds were released by the Federal government. It was stated that a one-year extension could be granted as long as the project was active in the permitting stage. **Parker made a motion to authorize BSC Group to proceed with the chapter 91 permitting work as described in the proposal. Archibald seconded. Motion passed (Yes 2, No 1, Abstain 0).**

F. Presentation of updates to FY23 operating budget, including any changes (if any) resulting from Pentucket School Committee meeting on March 10th – Angus Jennings, Town Manager

Jennings stated the Pentucket budget was formally voted on Friday night and was roughly \$200,000 lower than the initial assessment. This reduction was reflected on the FY23 budget document and could be found on the West Newbury website (see exhibit F pages 53-56). **No motions were made at this time.**

G. Referral of proposed ballot question re Agricultural Equipment Excise Tax to annual election ballot (see exhibit G pages 57-62 for details)
Archibald made a motion to approve the agricultural equipment excise tax exemption to the annual election ballot. Parker seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).

H. Review of proposed warrant articles for spring Annual and Special Town Meetings scheduled for Saturday, May 14, 2022 at 9am

Jennings stated the draft of the warrant provided in the packet had not yet been reviewed by Town Counsel (see exhibit H pages 63-70 for details). At this stage of the draft, Jennings suggested reviewing the draft for language and punctuation edits as no further action was needed at this time. **After brief discussion, Parker made a motion to strike the OPEB article from the warrant. Archibald seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).** The Select Board and Jennings discussed the Soldiers & Sailors building, the zoning issues surrounding the property, and the status of the preservation restriction guidelines. The Select

Board reviewed areas of the draft warrant that would need further work and areas where firm financial numbers would need to be inserted. **No motions were made at this time.**

I. Review and discussion of proposed Affordable Housing Trust Bylaw

The Select Board discussed the proposed bylaw and the benefit of developing an action plan for the committee in order to provide the most information to the voters (see exhibit I pages 71-81 for details). **No motions were made at this time.**

J. Vote intention to lay out Sullivan's Court Extension as a public way, and to referral to Planning Board for review

Jennings stated this was a procedural step in order for the Planning Board to complete a review (see exhibit J page 82 for details). **Parker made a motion of intention to lay out Sullivan's Court Extension as a public way, and to refer to the planning Board for review. Archibald seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).**

K. Discussion/review of Town of West Newbury COVID-19 Exposure Protocol

Jennings stated opposing comments had been received from staff (see exhibit K pages 83-93 for details). Jennings suggested to continue with current COVID-19 protocols within the Town Offices and to revisit the protocols in a few weeks. **No motions were made at this time.**

M. Potential referral of proposed amendments to the Personnel Policy for future public hearing

Jennings briefly reviewed the proposed amendments to the Personnel Policy (see exhibit M pages 99-100 for details). **Reed made a motion to refer the proposed amendments to the Personnel Policy for a public hearing March 28, 2022. Parker seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0).**

N. Meeting minutes: October 4, 2021 (see exhibit N pages 101-111 for details)
The Select Board decided to table this item until March 28, 2022.

Town Manager Updates

O. Updates regarding stormwater working group / MS4 permit compliance

Jennings gave a brief informational update, and stated the Stormwater Bylaw had been approved by the Attorney General (see exhibit O pages 112- 120 for details). **No motions were made at this time.**

P. Updates re Summer Rec Program and buildout of new platform for online registration and payment

Jennings gave a brief update on the new platform and stated it should be publicly available in the upcoming weeks (see exhibit P page 121 for details). The Select Board and Jennings discussed the various capabilities of the new platform. It was stated an update would be provided at the following meeting. **No motions were made at this time.**

Q. FY23 Chapter 90 funds allocation (see exhibit Q pages 122 for details)
This item was not discussed at this time.

R. Follow up meeting assignment; placing items for future agendas
This item was not discussed at this time.

Parker made a motion to adjourn open session. Archibald seconded. Motion unanimously passed (Yes 3, No 0, Abstain 0). Open Session adjourned at 11:46pm.