



**Town of West Newbury
Board of Selectmen
Monday, December 7, 2020 @ 5:00pm**
381 Main Street, Town Office Building
www.wnewbury.org

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2020 DEC -3 AM 10:00

AGENDA

Executive Session: 5:00pm by remote participation

- ❖ MGL Ch. 30A §21(a) 2: To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel (*joint meeting with Board of Assessors re hiring process for open staff position*).

Open Session: 6:00pm by remote participation (see below)

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; instructions below.
- Reminder to subscribe for emailed Town news/announcements at <https://www.wnewbury.org/subscribe>

Regular Business

- A. FY21/22 Goals Meeting with Boards/Commissions/Committees
- B. Meeting minutes: November 16, 2020

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:

Zoom Meeting

Phone: (646) 558 8656

Meeting ID: 982 7336 7979

Passcode: 907875

Join at <https://zoom.us/j/98273367979?pwd=OCs0V29XOHBDTkZyUE1hcS9LOEVsdz09>

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 West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.



Town of West Newbury

Board of Selectmen

381 Main Street, West Newbury, MA 01985 | 978-363-1100, Ext. 115
selectmen@wnewbury.org

Dear Board/Committee/Commission Chairperson:

It goes without saying that this has been (and continues to be) an unusual year. The Town of West Newbury is fortunate to have both outstanding professional staff and dedicated volunteers. We are doing well in trying times. Even as we are a small community, we are managing or dealing with several large and/or complex undertakings.

The list of new and above-the-baseline projects/tasks is long, but it is worth outlining some highlights: the building of a new High School/Middle School, working with Newburyport on design and construction of a new Middle Street Bridge, design and rehab of the Soldiers & Sailors Building / Carr Post, applying for and utilizing the CARES (Federal coronavirus relief) Act and related FEMA filings, addressing the COVID-19 pandemic and all its attendant issues, hiring new staff in key Town positions, responding to the Coffin Street (anticipated) 40B application, greatly improving our capital planning, complying with increasing Federal stormwater mandates, bonding and building a new water tower, exploring acquisition of a possible new well field, building a new Page School playground, fully implementing new Town accounting software and reconciling with prior years' data, adopting updated financial and operating policies, installing and regulating new electric vehicle charging stations, and funding and organizing new conservation restrictions and land purchases. Some of these projects, dilemmas, regulations or tasks are ones that the Town signed up for, but several were brought on by situations out of our control and yet they still need to be dealt with. These undertakings require a tremendous amount of staff time, on top of the baseline responsibilities that have kept our staff busy over the years. This is a long list, but everyone should know what everyone else is doing. In light of this, the BOS would like to triage the goals and objectives of the Town for FY2021, and plan ahead as we look to FY22. We cannot do everything all at once, and choices must be made.

With this in mind, we would request that each Board/ Committee/ Commission propose their one (or two?) top priority, objective, purchase or improvement. **This would be presented by one member selected from your boards or committees at a special meeting of the BOS on Monday, December 7, 2020 at 6:00 PM.** Your B/C/C's priority issue(s) may already be well-defined; or, you could schedule a meeting before this time to select the B/C/C's top goal(s) for the remainder of this fiscal year and as we enter the FY22 budget season. Following an initial presentation of ongoing initiatives, every presenter representing any board that wants their goal(s) heard would be given 3 minutes to speak at the meeting, with an equal amount of time for Board questions. We understand that this is a tight time limit, but the goal is to have a single meeting that allows all B/C/Cs to participate, and to gain an understanding of what others are working on. This would also give the BOS direction as to how to prepare budget recommendations for the next fiscal year and would assist the Town in prioritizing the workload of this year.

If you have print materials for review ahead of the December 7th meeting, please send them to selectmen@wnewbury.org on or before Friday, December 4th at 9am. These materials will be assembled into a packet that will be posted for review in advance of the meeting.

David Archibald,
Chair, Board of Selectmen

Angus Jennings
Town Manager

BOARD OF HEALTH PROJECTS

1. FY22: New automated curbside trash and recycling program.
 - a. Implement
 - b. Educate
 - c. Food waste management

2. Covid-19
 - a. Updates to residents
 - b. Management / follow-ups
 - c. Vaccination plan

3. Continue the monitoring and testing results of the Steele Landfill.

03DEC20 P&R meeting - Jack's goals on FY21 and budgeting for FY22

1. Develop a field use fee schedule available online at P&R tab on Town website, based on user group tiered fee schedule.
 - a. Goal is to have field use fees be predictable and generate more fees from field use.
 - b. Based on tiered fee based on type of user group multiplied by an hourly fee
 - i. This structure would reduce user groups grabbing more hours than needed under a flat fee schedule.
 - ii. This structure would equate to fees based on user group and actual hours requested.
2. Develop a better understanding of the Summer Rec program operations.
 - a. Enrollment
 - b. CORI checks
 - c. Registration fee
 - d. Cost / Revenue, financials through
 - e. Programming
 - f. Advertisement
 - g. Stipends
 - h. Look at using MyRec software.
3. Develop short term and long-term Capital Improvement schedule for P&S assets which have a useful life (Action Cove Playground, Page Softball fields, Bachelor Street Baseball fields, Babe Ruth Baseball.
4. Develop realistic budget for FY22.
5. Develop better alignment between Pipe stave/Mill Pond management plan requirements and what P&R Commission does (schedules, notices, frequencies, approvals, reviews, etc.)
6. Develop better collaboration with COA.

G.A.R. Memorial Library
Board of Trustees
Priorities through FY22

In light of the COVID-19 pandemic impact on library operations, the top priority for the near future and into FY22 is to support the safe and efficient reopening of the library building to the public. As the Library begins to open, there may be an extended interim period that will require mitigation measures unnecessary during normal operations. The length and permanence of this interim period is unknown, and in fact there may be cycles of opening and closing again as vaccination begins and community infection rates change.

Other priorities such as floor covering replacement and the addition of a 10 hr. weekly staff position have been deferred until after the library returns to full operation and the impacts of the pandemic are behind us.

Based on guidance from the CDC and ASHRAE, as well as the Massachusetts Board of Library Commissioners, the Board of Trustees will be focusing on the following priorities for reopening.

Cleaning

The library does not have a dedicated cleaning crew and has been using Compass Cleaning Services once per week. To support the safe reopening to the public, cleaning frequency should be increased from weekly to daily and include disinfection of the bathrooms. It is not clear how this will impact the cleaning budget line item, given that the timing and length of opening to the public with respect to the budget cycle is unknown. For comparison purposes, however, the current weekly cost for cleaning is \$200. The weekly cost for daily cleaning during public use under pandemic conditions would be \$1,000. While this is a temporary expense, it could be significantly higher than the budget allotted for FY21.

HVAC Improvements

Following the indoor air quality assessment completed by the Massachusetts Department of Public Health in August 2019, recommendations for improving the functioning of the HVAC system and Library air quality were made to the town of West Newbury. Many of these have been completed by the DPW and Library staff, however, some require the services of a professional HVAC contractor.

Given that COVID-19 is spread by airborne droplets, a properly functioning HVAC system will play an integral role in mitigating the transmission of SARS-CoV-2 as the library reopens. An evaluation of the existing engineering controls and equipment, as well as the maintenance and operation of the system, is necessary to insure that the HVAC system is adequate to support the safe reopening of the Library to the public. The need for installation of portable air filtration units in targeted areas will also be considered.

The cost for any improvements required for the safe reopening to the public won't be known until the HVAC evaluation is completed. The Board of Trustees is in the process of obtaining quotes for this evaluation.

Operations

In addition to the public safety related priorities described above, there will be operational improvements needed to facilitate the safe and effective use of the Library. These include the installation of microphones for the Plexiglas shields already installed at the circulation desk and posting of signs and arrows to direct foot traffic and promote physical distancing. It may also be necessary to maintain a supply of masks and hand sanitizer for patrons. These operational costs will be funded from the current year's budget.

Memorandum

TO: Town Manager/Board of Selectmen
FROM: Conservation Commission
DATE: December 4, 2020
SUBJECT: Priorities and objectives for FY 2021-2022

The Conservation Commission is currently addressing significant ongoing and future project submissions. These include the Pentucket building project and development on Coffin Street. In addition to these ongoing responsibilities, the Conservation Commission's two top priorities and objectives for the remainder of FY 2021 and FY 2022 are: 1) preparing a Wetlands Protection Bylaw for presentation at the next annual Town Meeting; and 2) providing additional hours for the Conservation Agent for land monitoring and management.

Massachusetts law allows individual towns to provide protections for wetlands beyond state minimum requirements. Through bylaw and regulations, the Town may recognize additional values and increase safeguards for resource areas. The majority of Massachusetts towns have done so, including neighboring towns such as Newburyport, Merrimac, Georgetown, Boxford, and North Andover. West Newbury's proposed wetlands protection bylaw will protect the town's current and future inhabitants from the costs of wetland degradation through regulations that more adequately protect the function of resource areas.

The Conservation Agent's additional time is necessary to properly monitor and maintain Town-owned open space properties, easements, and conservation restrictions within the care, custody, and jurisdiction of the Conservation Commission and trails located in those areas. Since 1998, the town has invested 6.2 million dollars in land acquisitions. There are more than 35 miles of formal trails on these properties available for public use. Many Town-owned properties have resource areas within the Conservation Commission's jurisdiction that must be considered and protected while completing trail work.

With limited additional hours in FY 2021, the Conservation Agent has conducted an initial inspection of all but one of the pre 2020 conservation restrictions in Town to determine compliance with the terms of the restrictions and is documenting the conditions to create a baseline for future monitoring. He is currently working on a project to identify and inventory all Town-owned and managed properties and will create a monitoring plan for those properties. The Commission believes a minimum of an additional three hours per week will be needed to monitor and maintain the Town-owned properties and trails in those areas.

As a future objective post-pandemic, the Commission intends to explore coordinating with Pentucket to develop an internship program for high school students interested in conservation to work under the Conservation Agent's supervision in either office or fieldwork. This experience could be credited toward these students' community service graduation requirement.

Land Agent Summary July-October 2020

From July through October 2020 time allotted for Land Agent responsibilities was used to increase my knowledge of the West Newbury trail systems in order to more effectively prioritize trail maintenance needs and respond to resident concerns as they arise, complete maintenance necessary to keep trails established and enjoyable for use by the public and to identify long term goals and maintenance priorities. This work was primarily conducted at Riverbend, Brake Hill, Mill Pond, Mullen Woods, Dunn Field, Chase Street/Moody Lane and the Withers Parcel. General maintenance was completed at all of these locations and will continue to be done in order to keep trails in good condition or improve the condition of trails where needed.

Overview of Maintenance Completed

- Re-established “red” trail at Riverbend/Paige School that was almost entirely overgrown
- Repaired or re-installed over a dozen trail markers at Brake Hill
- Clearing of invasive Winged Euonymus, Multiflora Rose and Oriental Bittersweet most notably at the Dunn Field “orange trail” connection to the Mill Pond trail system
- Extra maintenance of trail connecting Chase Street and Moody lane at request of a resident
- Marking of difficult to see sections of “orange” Riverbend trail
- Clearing of large fallen tree that was fully obstructing the “green” trail at Brake Hill

Overview of Goals and Maintenance Priorities

- Continue basic maintenance of trails (branches, trees, overgrowth, etc.)
- Replace aluminum trail markers at Brake Hill with wood trail markers & add trail markers where “green trail crosses the water tower road
- Pick up all the trash in Mullen Woods
- Research trail that appears to be abandoned at the Withers Parcel, is this on private property, if so is there an easement?
- Clear the large trail obstructions at Chase Street/Moody Lane, Riverbend and Brake Hill
- Gather information that could be used to develop a trail maintenance and management plan

Time allotted for land agent responsibilities was also used to begin a monitoring program for parcels subject to Conservation Restrictions held by the Town of West Newbury. The Essex County Greenbelt owned Atherton Reservation and the restricted Parcel at 23 Farm Lane were monitored and both found to be in substantial compliance with the terms of the CR. Several other parcels are anticipated to be monitored in the coming months.

From: [Glenn Kemper](#)
To: [David Archibald](#); [Town Manager](#)
Subject: Fwd: Cable Advisory / Selectmen Agenda
Date: Friday, November 20, 2020 8:48:32 AM

could you put this on both agendas please. Glenn

----- Forwarded message -----

From: Kevin Bowe [REDACTED]
Date: Nov 19, 2020 4:05 PM
Subject: Cable Advisory / Selectmen Agenda
To: Glenn Kemper <gkemper@wnewbury.org>, Glenn Kemper [REDACTED]
Cc:

Based on the motion passed last night by the Cable Advisory Committee, I am requesting time on the W. Newbury Selectmen's agenda for Monday night, if possible.

The cable advisory committee wishes to investigate the use of a portion of the PEG fees for a broader community use. We would like to reach out to the many stakeholders in the town for input and suggestions. The committee would also like to share one option for consideration which would hopefully appeal to a broad spectrum of the community.

In addition, please add the cable advisory committee to the Dec 7th planning meeting. Thank you, Kevin Bowe

TREE COMMITTEE PRIORITIES FOR 2021-2022 *
(in ranked order with #1 being highest priority)

1. Publishing and distributing booklet on Best Management Practices for protecting trees during construction
2. Conducting survey of WN residents, electronic and paper, to determine attitudes and priorities for tree preservation, protection, and replanting
3. Continuing to evaluate and add qualifying trees to the Roster of Significant and Remarkable Trees
4. Working with Planning Board and ZBA on landscaping plans and tree protection during construction for properties under development
5. Planting new trees and arranging for care by property owners along public roadways and in public spaces
6. Conducting public educational programs for residents, such as Tree Day information sessions and tree ID walks.
7. Publishing booklet on Best Management Practices for property owners on planting and caring for trees
8. Conducting other educational outreach
 - Please note: The Tree Committee website will continue to be updated often during 2021- 2022 to provide tree-related news and resources of interest to community members, Town Boards and Committees, and other interested persons.

From: [DPW Director](#)
To: [Town Manager](#)
Subject: RE: Dept head/staff mtg Tuesday 11/24, time TBD (RESPONSE REQUESTED)
Date: Friday, November 20, 2020 9:36:12 AM

Angus,

DPW Projects / Task for 2021.

1. Roadway Paving – Contract administration and \$700,000 worth of paving 4-6 weeks of staff commitment time.
 2. Page School Fire Alarm Upgrades. 3 months of oversight of this project. Most likely starting at the end of December.
 3. Page School Playground.
 - A. RFQ, contact, and bid prep
 - B. Contract administration
 - C. Construction oversight town and contractor work.
 4. Soldiers and Sailors – Design plan review, Bid review and hopefully start of construction oversight.
 5. Town Offices HVAC control upgrades – project oversight.
 6. Middle Street Bridge – continue with project engineering / design oversight and review.
 7. Town Hall – Painting / window replacement project.
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Town of West Newbury
Office of
Inspectional Services
West Newbury, MA 01885
Phone: 978-363-1100 x122

TO: Board of Selectmen, Town Manager
FROM: Sam Joslin, Building Commissioner
DATE: November 25, 2020
SUBJECT: Ongoing and proposed project update

The following is a list of projects the Inspectional Services Department (ISD) is currently working on, the status of those projects, and proposed initiatives:

Coffin Street 40B – Anticipated project. Currently working with Zoning Admin to set up a central repository to post submitted documents and other information online for transparency during the application and development of the project.

PRSD – New school building under construction. Foundation at 100% and steel work at approximately 80%. ISD is collecting engineering reports and third-party inspections and performing inspections and site visits as needed.

Rewrite of Floodplain Bylaw – The ISD has rewritten the Floodplain Bylaw as required by the State and National Flood Insurance Program (NFIP). The rewritten bylaw is currently under review by the Planning Board for acceptance and recommendation to be placed on the Town Meeting warrant.

ADA Grant for Self-Evaluation – The grant has been submitted and received by the state and is under review. Awards will be announced by the end of the year. If awarded the ISD will work with the evaluation team to evaluate Town owned properties for compliance with the ADA and AAB. Anticipated grant amount if awarded - \$10,000.

Reorganization of Zoning Bylaw / eCode – The ISD is currently working on reorganizing the existing zoning bylaw into a format that is more user friendly with the intention of utilizing General Code's eCode online platform. This will allow for easier access and searchability for the Town employees and citizenry and will also assist in identifying and improving/correcting sections of the bylaw as needed. Anticipated cost for zoning bylaw conversion to eCode - <\$4,000.

Page School Playground ADA Compliance – In process

Carr Post Rehab – In process

Respectfully,

Sam Joslin

From: [Town Accountant](#)
To: [Town Manager](#)
Subject: Accounting Projects
Date: Thursday, December 03, 2020 2:10:31 PM

Hi Angus:

You already know most of the projects I have on my plate but here they are:

- Revenue turnover forms (standardized among all departments) along with updated forms that will populate a copy of the receipt for the Treasurer, 1 for Accountant, and a copy to go back to the department
- Research and turnback of old grants revenue from over the past 5 years and or researching deficits in funds
- Harpers set up and report writing for more streamlined reports to extract information
- On-going account structure fixes from years past

Thanks,

Stephanie Frontiera

Town Accountant/ Business Manager

Town of West Newbury

Town Office Building

381 Main Street

West Newbury, MA 01985

(978) 363-1100 x112

townaccountant@wnewbury.org

DRAFT - Planning Projects (note: these are in no particular order other than category)

Affordable Housing

- Affordable Housing, Local Preference. LZ or LZ+Consultant?
- Affordable Housing, Fee In Lieu Fund – Regs to establish allowable uses & establish processes for expenditure of funds – KP Law help?
- Momentum for Affordable Housing Trust or Committee, Town Sponsored Project on Mullen Property? Habitat for Humanity has contacted LZ 2 or 3 times over the past year with interest in doing a small project. Momentum for Town sponsored affordable housing due to Coffin St 40B and potential for more 40B's? West Newbury People Page – Ann O'Sullivan and Tom Atwood allude to new committee and Mullen Property. Town has funds from ICH Fees and CPC Account. MA housing crisis. Is the time right?

Bylaws/Regulations

- Scenic Roads Bylaw – Establish Permitting Procedures, Investigate Further Standards
- Storm water Bylaw – Work with HW/MVPC for new Bylaw – Spring Town Meeting
- Review/Amend Site Plan Review for Municipal Uses – Status of EVC's & Playground Permitting?
- Facilitate Further Review and Adoption of "Housekeeping" Zoning Amendments

Other

- Assist with Strategic Planning Retreat
- Participate In/Monitor Pipestave Parking Project with P&R and others
- Establish Policies/Guidelines for Public Trails in Projects (i.e. construction standards, ADA Compliance, etc.). Work w/ PB, OSC, ConCom, others
- Utilize Planning website more, to keep public informed

Permits:

- 519 Main Street Definitive Plan
- Sullivans Court Definitive Plan Wrap Up
- Drakes Landing Admin
- Coffin Street 40B Support Through Permitting – Though not specifically assigned to Planning, I have been a resource since the onset.
- Archelaus Place – Poor House Lane, Act as a Resource and Anticipated Permitting

ARTICLE REQUEST FORM

ARTICLE:

AMOUNT REQUESTED:

CONTACT PERSON:

PHONE NUMBER:

Why should the Town make this purchase? What needs will be met? Who will benefit?

What factors affect the timing of this purchase?

When should this Article be sunsetted--how long will the project take?

What ancillary costs do you anticipate? (Maintenance, Insurance, Training, etc.)

Does this Article involve improvement, preservation or creation of tangible Town-owned assets and projects which 1) have useful life of at least five years; 2) cost over \$20,000 and or 3) for which the Town is authorized to borrow funds? If so, please confirm that this item is on the Capital Improvements Committee Schedule for future capital investments.

Please attach additional pages or other supporting documentation.



Local Finance Opinion

LFO-2019-1
March 26, 2019

TOPIC: Assessing Utility Properties

ISSUE: Evolving Court Decisions Affecting Determination of Fair Cash Value of Utility Properties

This LFO examines changes in the law governing the valuation of the personal property assets of utility companies and the resulting change in guidance from the Bureau of Local Assessment (BLA) on the appropriate method of valuation for purposes of local property tax assessment.

1. What was the legal basis for BLA's guidance in its certification standards that assessors use "net book value" in assessing personal property assets of utility companies?

BLA based its presumptive reliance on "net book value," most recently issued in Informational Guideline Release (IGR) 2017-01, upon two decisions of the Supreme Judicial Court (SJC) - *Boston Edison Co. v. Assessors of Watertown*, 387 Mass. 298, 301 (1982) (*Watertown*) and *Montaup Electric Co. v. Assessors of Whitman*, 390 Mass. 847 (1984) (*Montaup*). These cases held that valuation using "net book value" is presumed to be the appropriate method to determine fair cash value of utility assets unless assessors can demonstrate special circumstances warranting an alternative valuation approach, such as replacement cost new less depreciation. Valuation by "net book" looks to the original cost of property when first put into use, reduced by accrued depreciation.

The court's determination of "net book value" as the presumptive method to determine fair cash value was based upon the then longstanding position of the Department of Public Utilities (DPU) that, "if a regulated utility sells an asset to another regulated, public utility, the basis of that asset in the hands of the transferee remains the same as that of the transferor for rate-making purposes. Thus, if Edison were to sell any of its taxable personal property in Watertown to another public utility that other utility would be allowed a return on the transferred property based on that property's net book, or rate base, value, and not on any higher purchase price it might have paid." Therefore, the value or earning power of the utility property was affected by the DPU's restriction and was required to be considered in determining fair cash value. However, "net book cost of the property does not set an upper limit on the property's value for local taxation purposes." *Watertown*, pp. 301-302. Special circumstances may warrant a valuation higher than "net book value."

In the *Montaup* decision (page 855), the SJC acknowledged that while the taxpayer has the burden of establishing overvaluation when challenging a property tax assessment, "a regulated utility should not be required to establish the lack of special circumstances which were enumerated in *Watertown*, until there is

some evidence offered by the assessors to show that, because of such circumstances, the relevance of rate base value is put in question.” As a result, assessors were required to show special circumstances before using a valuation method other than the “net book value” approach.

2. What “special circumstances” would allow assessors to value utility property using a method other than “net book value”?

The *Watertown* court provided a nonexclusive list of examples of “special circumstances” that might induce a buyer of utility property to pay more than the “net book value” or rate base value of the property and, if shown by assessors, would allow a valuation method other than “net book value.” *Watertown*, at 306. Special circumstances include:

- a) The return actually earned by the utility may exceed or be expected to exceed the rate of return approved in the allowed rate and encourage a buyer to pay more than the rate base.
- b) There is a possibility that the rules of law or governing agency decisions might be changed to make an investment in the company more attractive.
- c) The potential for growth in a utility’s business may warrant a buyer to pay more than the utility’s net book cost of particular property.
- d) The possibility of finding a buyer that is not a public utility.

3. Have there been changes in the law or regulatory policy since *Montaup* that cast doubt on the presumptive use of net book value?

Yes. Beginning in the 1990’s, a change in DPU’s regulatory policy eroded the presumption of net book value as the method of valuation for property tax purposes. As discussed in *Stow Municipal Electric Dept. v. Dept. of Public Utilities*, 426 Mass. 341, 347 (1997), the change involved DPU endorsing a more flexible approach to valuing utility property, changing from a mandatory rule that always limited a buyer of utility property to the seller’s rate base to a case-by-case determination.

In the *Stow* case, the DPU employed net book value as its “starting point” for the valuation of electric-generating assets that the Stow Municipal Electric Department was acquiring from the Hudson Light and Power Department. But given its discretion to consider “any other element which may enter into a determination of fair value,” the DPU used a blended appraisal approach relying 50% on net book value and 50% on reproduction cost new less depreciation, in setting the purchase price for the Hudson personal property. Both parties challenged this hybrid methodology; however, the SJC found the “department’s 50% weighting of reproduction cost new less depreciation [to be] well within its discretion.” *Stow*, at page 345.

4. What effect has this change in DPU regulatory policy had on the valuation of utility assets for property taxation purposes?

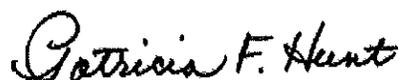
In 2011, the SJC considered an appeal from the Appellate Tax Board (ATB) in *Boston Gas Co. v. Assessors of Boston*, 458 Mass. 715 (2011). In this case, the assessors had used a valuation method other than net book value to value the taxpayer’s utility property. Specifically, they used a valuation method that gave equal weight to the property’s net book value and its reproduction cost new less depreciation. The SJC held that the ATB’s finding that changes in the utility regulatory environment (see changes described in the *Stow* case above) and other special circumstances justified the use of a

valuation method other than “net book” and that the method used provided a reliable estimate of the fair cash value of the property.

Most recently, in *NSTAR Electric Co. v. Assessors of Boston*, 94 Mass. App. Ct. 1123 (2019), the appeals court, in a Rule 1:28 Memorandum Decision, upheld an assessment of utility property that was also not based upon net book value. The assessors in this case used the same method of valuation as in the *Boston Gas* case. For fiscal year 2012, while the net book value of the property was \$1.155 billion, the assessors valued it at \$1.586 billion. For fiscal year 2013, the net book value was \$1.182 billion and the assessors valued it at \$1.635 billion. NSTAR’s appeal argued that the record did not support a finding of special circumstances to allow assessors to deviate from using the “net book value” of the property. The appeals court disagreed, stating that the assessors (and ATB) had relied upon relevant DPU decisions made from 1993 to 2010 to show that the DPU’s carry-over rate base rule has changed. The change in the regulatory rule provided special circumstances to warrant deviation from net book value. The assessors had also shown that NSTAR had actually received a higher rate of return than its approved rate of return, another “special circumstance” described in the *Watertown* case above. The showing of special circumstances by the assessors permitted a valuation other than by net book value and, upon this showing, the burden of proof then shifted back to the utility to prove overvaluation, which it could not.

5. How will BLA certification standards for assessors reflect the evolution in the law regarding valuation of utility assets?

Both the *Boston Gas* and the *NSTAR* cases demonstrate that the ATB and the appellate courts have accepted that the DPU’s carry-over rate base rule has changed over the years and that this change is a “special circumstance” warranting deviation from the net book valuation approach. In each of these cases, the assessors also demonstrated other special circumstances to warrant another valuation approach. As a result of these decisions, we believe that net book cost should no longer be the default method of valuation of utility property or conclusive for purposes of the fair cash value standard of G.L. c. 59, § 38. As a result, BLA will be modifying its certification guidance that previously gave presumptive validity to net book cost as the standard for valuing utility assets and will be advising assessors to consider other data relevant to value, including data that shows that utility assets will generate greater returns than net book value would suggest. Such data, as well as the change in DPU regulatory rules, would constitute “special circumstances” to allow the use of other valuation approaches. For purposes of mass appraisal, BLA will be accepting a method that gives equal weight to the property’s net book value and its reproduction cost new less depreciation. Although we note that the continuing relevance of net book value to property tax assessments is uncertain, the recent court and ATB decisions have upheld utility valuations based upon this approach.¹



Patricia F. Hunt, Chief
Bureau of Municipal Finance Law

PFH:DEG

¹ See *NSTAR*, at page 12, where the court noted expert testimony that “net book value is an accounting entry and not a valuation method.”

Town Manager

From: ppreeser [REDACTED]
Sent: Sunday, November 15, 2020 10:42 AM
To: Ryan Goodwin
Subject: Mill Pond All Access Trail and Interpretive Signage
Attachments: mill pond signs.pdf

Hi Ryan:

A month or so ago the Open Space Committee reached out to you about possibly locating an All Access Trail around part of the pond. Did you discuss this with your committee? If so, what was the reaction? Any decision on this score? There are opportunities for grants out there but they require projects that are ready to go. We would like to have MPC onboard and then jointly approach the Selectmen about applying to several grant programs for design and eventually construction funds. Some Town match would likely be required.

Also, a subcommittee of the municipal Vulnerabilities Working Group is interested in doing some educational projects on invasive species. The committee hopes to engage in outreach raising awareness of why that is important. We hope to engage in some pilot eradication projects showing how citizens might proceed on their own. Eventually, we hope to engage the DPW in helping to eradicate invasives from town properties.

I am reaching out to you and MPC for two reasons. In our outreach discussion, several of us remembered the signage that used to be in various places around Mill Pond explaining the importance of wildflowers to pollinators and other interesting features of the area. Chip Wallace's son did the signage as an eagle scout project years ago. I have included a description from Chip of the content of the signs below. We would like to see the signs reinstated, perhaps with QR codes for further information relating, for example, to invasives. The content of the signs might have to be updated to reflect current conditions at Mill Pond, but they are certainly a start. Is this a project the MPC would be interested in working on with us? Secondly, there are stands of knotweed and phragmites at Mill Pond in prominent areas that might be good very public demonstration areas for invasive control methods. Would MPC be interested in working with us on that aspect as well? If so, there would be additional opportunities for interpretive signage.

I look forward to hearing from you. If it is more convenient, I am happy to speak with you. Home phone is [REDACTED]
[REDACTED]

Best,

Patricia Reeser

From: Wallace, Arthur (Chip)
Sent: Wednesday, November 11, 2020 1:25 PM
To: Patricia Reeser [REDACTED]; NPau [REDACTED]; Carol Decker [REDACTED]; Linda Schaeffer [REDACTED]
Cc: Liz Callahan [REDACTED]
Subject: invasive species work group followup

Hi all,

Following up on our Monday meeting, here is the information on the signs at Mill Pond. They were printed at Sign A Rama in Salisbury, which might not be around any more.

If there are any questions please let me know.
Chip

From: [Town Manager](#)
To: [Finance Admin](#)
Subject: Fwd: Watershed Protection Coordination
Date: Friday, December 04, 2020 8:48:46 AM
Attachments: [draftbylaw-WestNewbury.docx](#)

Please include this email with attachment in the OS packet thanks

Begin forwarded message:

From: Jon-Eric White [REDACTED]
Date: November 25, 2020 at 1:11:00 PM EST
To: Town Manager <townmanager@wnewbury.org>, Matthew Coogan <MCoogan@cityofnewburyport.com>, Anthony Furnari <AFurnari@cityofnewburyport.com>, Thomas Cusick <TCusick@cityofnewburyport.com>
Cc: "Tracy J. Adamski" [REDACTED]
Subject: Watershed Protection Coordination

ALL – pls read. I'm trying to set up a mtg for next Thursday or Friday. We can discuss after the holiday weekend.

Angus,

As we discussed on the phone this morning (thank you again for your cooperation and time), we have a lot going on relative to watershed protection of our public water supplies. It's clear that we need to meet very soon to begin this dialogue between both towns, especially because we'll likely request to get onto your spring town meeting's agenda/warrant so we can begin some outreach work and hopefully adopt a new bylaw. As you know, Tighe & Bond (T&B) is our consultant helping with this effort.

FYI, attached is a Draft WP Bylaw to begin the discussions. This was previously emailed to Mike G when Tom had discussions with him on the subject. Mike was seeking a non-profit to assist WN in drafting a similar bylaw. Maybe this will expedite that effort.

Here are some highlights of our work to-date:

<!--[if !supportLists]-->• <!--[endif]-->We determined the need for a piped system from Indian Hill reservoir down to our Artichoke reservoirs and the raw water pump station on Rt. 113. We have many routing options that are being worked on right now and next week we'll be able to share them with you. The main reason for this pipeline is whenever we lose the Artichokes to an algae bloom or otherwise, we can collect water directly from Indian Hill.

<!--[if !supportLists]-->• <!--[endif]-->We have some conceptual layouts to

reconstruct the Lower Artichoke Dam to address an aging dam and to better prepare ourselves from a breach of the Merrimack River during storm events. Currently the dam's spillway is 3' below current FEMA 100-yr flood elevation. This is a direct threat on our water supply that must be corrected. Along with this effort is the impact to your current wellfield.

• We are about to close on our Notice of Intent filing with your ConCom to permit the installation of a spillway protection system at the Lower Dam. It's essentially a stone foundation behind the dam so we can drop large sand bags on top of it when and if a storm or high surge event is coming.

• Watershed protection measures, such as developing and adopting a Watershed Protection Bylaw for WN and public outreach brochures, etc. We'll also update our city's WP Bylaw as we encounter improvements that can be made. This effort requires a lot of coordination between both towns, especially on how to implement such a campaign. This alone is a huge effort and the main reason to meet now so we can, hopefully, present for adoption a Watershed Protection Bylaw at your spring town meeting.

• Water Demand Planning: we need to know if WN has a real and serious potential to request additional water supply in the future. We also need to have this discussion with our other neighbor, Newbury. T&B is working on re-evaluating our supply and demand needs.

• Our proposed interconnect work with Amesbury.

I request a meeting with you, hopefully Mike Gootee and possibly key member(s) of your Water Commission? We'll have T&B, Tom, myself, and other key players yet to be determined. This email will begin the discussion of who should attend. I'll let you know who on our end will attend so you can plan accordingly. **Is next Thursday or Friday too soon?** We're ready. It may help you prepare for your Dec 7th meeting.

Goal of meeting: a working session to discuss T&B's proposed outreach program (a planning and guidance tool), to discuss how we can begin to implement said outreach program, to update you on our work efforts to-date, to hear your preliminary planning and capital projects proposals, and to roughly schedule what needs to be done in December and January in order to get on the spring meeting's warrant. The other bullets above can be discussed throughout all of next year. We should probably start up monthly or bi-monthly meetings?

Thanks again and I hope you have a nice, covid-free Thanksgiving!
Jon-Eric

Jon-Eric White, PE
City Engineer
Department of Public Services
16C Perry Way
Newburyport, MA 01950

p 978-465-4464 x1710



www.cityofnewburyport.com

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**Town of West Newbury
Board of Selectmen
Monday, November 16, 2020
381 Main Street, Town Office Building
www.wnewbury.org**

Minutes of Meeting

Open Session: 7:06 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: 989-8496-0020

Or from computer, tablet, or smartphone:

<https://zoom.us/j/98984960020?pwd=NTdYT2szcUQvZ2E1R1A0Z0ttblZBdz09>

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 7:06 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
- ❖ Adam Stone
- ❖ Sam Joslin
- ❖ Corinn Flaherty
- ❖ Fred Chanania
- ❖ Wendy Reed
- ❖ Rose Vetere

- ❖ Jen LS
- ❖ Kathy Feehery
- ❖ Marie D
- ❖ Michael Ricci
- ❖ Kim Borgioli
- ❖ Albert, Cullen House Mac

Announcements:

- Community Preservation Committee, Annual Public Hearing regarding the needs, possibilities and resources of the Town relative to the Community Preservation Act in the areas of community housing, historic preservation, and open space recreation, to be held Thursday, November 19, 2020 at 7:30 p.m. (See page 2 for information)
- Pentucket Arts Foundation, 17th Annual A Cappella Night, virtual meeting to be held Saturday, November 21, 2020, available as of 6:00 p.m. Tickets \$10 at www.pentucketarts.org. All proceeds to benefit arts in the Tri-Town Pentucket Region. (See page3 for information)
- Reminder to subscribe for e-mailed Town news/announcements at <https://www.wnewbury.org/subscribe>

REGULAR AGENDA

A. Request for Appointment to the Zoning Board of Appeals, Kim Monahan Borgioli:

Chairman Archibald reviewed Kim’s credentials at the previous meeting. (See Exhibit A, pages 8 through 12 for information) Stated that she expressed an interest in the ZBA position but hadn’t completed the application, which has now been done. Town Manager Jennings clarified that it would be a full member position, 5-year term ending on June 30, 2025, which she stated that she doesn’t know what will happen in the next five years but she will give it her best shot.

Motion made by Chairman Archibald to appoint Kim Monahan Borgioli to the Zoning Board of Appeals full member position for five years, ending Jun 30, 2025. Seconded by Selectman Kemper.

Yes 3, No 0

B. Updated Regarding Coronavirus Pandemic/COVID-19:

Chairman Archibald discussed the new updates and guidelines issued by the Commonwealth. (See Exhibit B, pages 13 through 35 for information)

Town Manager Jennings stated that a Board of Health reminder went out regarding masks being required and changing the risk assessment process regarding colors. Jen asked whether there will be a fine with regards to mask enforcement. Town Manager Jennings stated that there is not a fine scheduled. The Board of Health took that question up about a month ago and did not vote to establish any fines at this point. She asked what’s the teeth behind the law or the rule.

Chairman Archibald stated that this is not the Town's regulation, this is from the Commonwealth, so would have to ask the Governor.

Town Manager Jennings also stated that with regards to the Chapter 201 modifications, the tolling period for hearings ends December 1st and clocks start to run as of December 1st. Town Counsel McCarron added that the timeframe for which a board must act was suspended for this period, that suspension ends on December 1st and the clock starts up, so any proposals that are brought before a board which has a statutory time limit in them, now that clock proceeds.

C. Consideration of Whether to Exercise First Refusal Option, Pursuant to M.G.L. Ch. 61A, Section 14 for Portion of Land at 183 River Road (Grew Parcel):

Chairman Archibald provided background regarding this topic. (See Exhibit C, pages 36 through 42 for information) He explained that it's a small area that's to be subdivided off of the large property to accommodate one house lot. This has been looked at by the Planning Board and the large parcel itself ultimately will be maintained in Chapter 61A, so only this small parcel of approximately four and a half acres will be taken out of 61A. Parcel is right along River Road, so it would be a regular house lot, but the large parcel would still remain in 61A.

Motion made by Selectman Parker to waive first right of refusal on the Grew property on 4.43 acre parcel on River Road. Seconded by Selectman Kemper.

Yes 3, No 0

D. Informational Update Regarding Recent MassHousing Issuance of 40B Project Eligibility/Site Approval Letter for Property at 28 Coffin Street and 566 Main Street:

Town Manager Jennings gave a brief summary on this topic. (See Exhibit D, pages 43 through 57 for information) The developer of the site requested a letter of project eligibility and site approval from MassHousing. Has been pending for some time. He explained the issuance of PEL, which gives a developer the option to apply for the 40B project. Nothing filed to date. Local requirements updated by the ZBA are strong.

Chairman Archibald stated that eligibility doesn't mean approved. Town Manager Jennings stated that it's important to keep in mind that under Chapter 40B, the Conservation Commission maintains full jurisdiction to enforce the Wetlands Protection Act, and they are scheduled to have an open hearing on ANRAD on December 7th. Further discussion was had regarding the timeframe for this being done with the winter coming along and what can be done at this time.

Rose Vetere commented that she has heard of work being done on the property and inquired as to whether the developer checks in with the Town. Town Manager Jennings stated that the Water Department did have to authorize for them to tie into the water for perk tests. Selectman Kemper commented that they aren't legally bound to inform the Town to do work on the property unless the work requires a Town permit. Town Manager Jennings stated that there is a letter posted on the BOS web page.

E. Discussion with Library Board of Trustees:

Chairman Archibald requested that this topic be taken up early. (See Exhibit E, pages 58 through 72 for information) Chairman Archibald explained the inquiry at the previous meeting regarding staffing.

Corinn Flaherty stated that the pandemic has changed their operations completely since they're not letting the public in. Stated that a lot of the work that was done previously by patrons are now being done by staff. She explained how work has increased. Stated that curbside started on June 15th and slowly been inching their way back up to their regular circulation and right now, only 25% behind where they were last year. So, with the extra staff work and moving closer to regular circulation statistics, they're plenty busy.

Wendy Reed explained that early on in the pandemic, Corinn did a lot of research on how other libraries are handling services during the pandemic. They developed a phased reopening plan for the library which she circulated to the Health Agent, Town Manager Jennings, and the Public Health Nurse and the Board of Trustees worked with her on to finalize and approve, which they have been using all along to determine when they could open for various phases.

She also expressed concerns regarding how the concerns were addressed. Fred Chania commented on the programming strides that have been made.

Selectman Kemper stated that he did mention that this should be done across the board, not singling out the library. Stated that he was answering resident concerns. Selectman Parker stated that he has received multiple comments regarding the tone of the previous discussion. Selectman Kemper stated that as Selectmen, if we aren't looking at this, we aren't doing our job, and now we have this great conversation to work with, we have great materials to work with.

F. Discussion of Resident Correspondence Regarding Truck Traffic on River Road:

Chairman Archibald updated on this topic. (See Exhibit F, pages 73 through 74 for information) Town Manager Jennings stated that he has received a complaint of increased traffic on River Road by Dick Cushing and asked that it be put on the agenda.

Also stated that the Town can issue non-enforceable guidance signage on truck traffic but prohibiting truck traffic is a much higher threshold. Stated that the DPW Director, who is a traffic engineer with a lot of experience in this spelled out in his e-mail why he didn't think that was likely to happen in this case, but did state that perhaps they can place non-regulatory signs to discourage such traffic and can have Wayne advise at a future meeting. Chairman Archibald stated that it seems we would just be moving the problem to another road. Selectman Kemper suggested that we keep an eye on it.

G. Discussion of Format and Schedule for FY21/22 Goals Meeting with Boards/Commissions/Committees:

Chairman Archibald commented on this topic. (See Exhibit G, pages 75 through 77 for information) Stated that we should bring BCCs together to understand/prioritize FY21 projects and goals and into future years. His idea would be a Zoom meeting with one representative from each board to present. Asked if this is an exercise that would work and be worthwhile?

Town Manager Jennings recommended December 7th, which would be an extra meeting. Stated he can send out invitations in the next week and stated that it should be a stand-alone meeting. Everyone agreed that an attempt should be made to set this meeting up. Selectman Kemper suggested that they try it and see if it works, but there should be a limit of three minutes for presentations and three minutes for questions.

H. Discussion of Upcoming Administrators/Managers' Meeting with Representative Moulton:

Chairman Archibald asked for ideas for Town Manager Jennings to present to Representative Moulton. Chairman Archibald stated that he would like to add, with regards to what happened at the last BOS Zoom meeting, he would like to add to the list regarding municipalities' risk for ransomware targeting communities, as well as continuing to work on the CSO's on the Merrimack in cooperation with congressional people in New Hampshire. (See Exhibit H, pages 78 through 79 for information)

Selectman Parker stated that with regards to cyber security, he agrees that anything that could help out at the federal level, that would be very valuable, and regarding energy systems and their contribution to greenhouse gasses. Selectman Kemper stated that we should talk about more federal help to protect our river shorelines and suggested a follow-up in six or seven months to see how things are progressing.

I. Discussion of Potential Amendments to Personnel Policy:

This item was passed over. (See Exhibit I page 80 for information)

TOWN MANAGER UPDATES

J. CARES Act Funds Received, Sub-Grantee Agreement with Pentucket, and November 13th Report:

Town Manager Jennings gave a status update on this topic. (See Exhibit J, pages 81 through 96 for information) Stated quarterly report was put in on Friday and again explained the process of how it works with CARES and FEMA. Also stated that the sub-grantee agreement with Pentucket was executed. He also provided notice to local departments that round two of the funds were received of around \$113,000.

Selectman Kemper asked if this is helping to offset some of our revenue loss or just paying for additional expenses. Town Manager Jennings stated that no, it is not credited towards revenue expenses, only covers expenses that were not budgeted and would not have occurred other than for COVID.

K. Electric Vehicle Charging Stations, Schedule for Installation:

Town Manager Jennings gave an update on this topic. Stated that installation is scheduled to begin this month. (See Exhibit K, page 97 for information) Stated that the Page School will start Thursday the 19th and the 1910 Building will start Monday, the 23rd. Working to get into place the contract with Charge Point and have them be fully operating once they're fully installed. Expects it to take three to four days start to finish. Selectman Parker stated that his only concern is power and working with National Grid.

Town Manager Jennings stated that once they're up and ready for use, plan to heavily promote those through the Town website and social media to make sure that people know once they're available to see what utilization they get. Selectman Parker stated that we have four plug-in vehicles for trial/demonstration.

L. Update on Middle/High School:

Town Manager Jennings gave an update on this topic. (See Exhibit L, pages 98 through 127 for information) Had a meeting last Tuesday. Amendment voted to add to guaranteed maximum price. He explained that everything is going well and that some items cut during the value engineering phase were able to be added back due to costs coming in lower than costed.

Selectman Kemper stated that it is estimated that the kids will move in at the beginning of the school year in 2022, with completion of the entire project in 2023.

M. Design Contract for Soldiers & Sailors Building Restoration:

Town Manager Jennings updated on this topic. (See Exhibit M, pages 128 through 129 for information) Stated that a contract was sent to the architect on October 9th, and a signed copy was returned on November 7th. Waiting to get the schedule updated to reflect the passage of time. Did reach out to Lynn Spencer last week to see if can speak by phone but hasn't heard from her yet. Will keep working with her to get a timeline and get the design work done this winter and go out to bid late winter, early spring when the contractors are still looking for work.

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

Establish Pipestave Parking Committee; discuss BCC's keeping/posting minutes.

Motion was made by Selectman Kemper to adjourn the meeting at 8:47 p.m. Seconded by Chairman Archibald.

Yes 3, No 0

Respectfully submitted,

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