

Westborough Advisory Finance Committee  
Minutes of Meeting No. 26, FY2012  
February 23, 2012

Approved  
February 27, 2012

Members Present: John E. Arnold, Chair, Ed Behn, Peter Allen, Bill Linnane, Jo Lown, Jim Tepper, Kathy Rosenblum Senie, J. J. Malone, Lisa Blazejewski. Absent: None.

At 7:00 p.m. Mr. Arnold called the meeting to order in the Selectmen's Meeting Room. He reminded residents that Annual Town Meeting will be on March 17<sup>th</sup> at 1:00 p.m.

### **Call to Order/Open Forum**

There were no requests to address the Committee.

### **Approval of Minutes**

#### **Meeting No. 24, February 16, 2012**

Ms. Rosenblum Senie and Mr. Malone had requested corrections to the minutes. Mr. Behn moved to accept the minutes as amended. The vote to approve the minutes is 8 in favor and 1 abstention (Blazejewski), with 9 being present.

### **Preparation for FY2013 Annual Town Meeting**

#### **Discussion/Deliberation of Budgets and Warrant Articles**

Greg Franks met with the Committee to discuss the impact of the various bylaw-related warrant articles.

**Article 21. Fee setting.** Mr. Franks confirmed that the only impact of this article would be to remove responsibility for the setting of Animal Control, Weights & Measures, Stable and Innkeeper/Victualler fees from Town Meeting to the Board of Selectmen. No other fees are affected. Mr. Franks noted that sometimes the general laws set out the maximum fee which can be charged, but who sets the fee makes no difference.

**Article 22 & 23. Snow removal bylaw/Non-criminal Disposition regarding Snow Removal.** Mr. Franks explained that without non-criminal disposition, the only option for enforcement is to take a criminal case to district court, and that having a civil process (as for a parking ticket) is easier. Presently an officer hears any appeals at Town Hall, but a resident can request a formal hearing, or can appeal further to a superior court. Mr. Franks noted that holding a property owner responsible for the accumulation of snow or ice on their property is standard practice in the majority of states. He explained that if a sidewalk is on a private way, abutting the resident's property, the resident is liable for any injuries incurred due to accumulated snow or ice on the sidewalk. If the sidewalk is on a public way, the town owns the sidewalk and currently is liable. Mr. Franks added that indirectly, residents end up paying for the town's liability as well. Mr. Arnold asked Mr. Franks to work with Town Manager Jim Malloy to tighten up the language in the Town Manager's summary since it isn't as clearly stated.

Mr. Franks explained that the bylaw would not be violated if the town chooses to clear certain sidewalks but not others. Mr. Arnold thought there was an issue of fairness and the article placed a burden and an unfunded mandate on some property owners. Mr. Franks felt it can be viewed as a reasonable response to a legitimate government interest which did not violate any state law. He noted that residents may petition the town to remove a sidewalk. Mr. Allen felt that Section 17.2 should say "punishable" rather than "shall be punished." He asked about the town's history of injuries or lawsuits, and Mr. Franks noted that he has no knowledge of any due to snow or ice accumulation. Mr. Malone pointed out that, at one point, the town did have a bylaw compelling residents to clear their sidewalks, but it was repealed because no one complied. Mr. Tepper felt this change might unfairly penalize residents by making them responsible

for clearing any large amounts of snow deposited by the town snow plow contractors, and was also concerned that too much time would be spent by police officers writing tickets for excess snow accumulation. Mr. Behn felt there was a safety issue involved with trying to keep sidewalks clear, as schoolchildren need to use them to walk to the bus stop. In answer to Mr. Tepper's query, Mr. Franks thought that around 25% of the town's sidewalks were cleared by the town. Mr. Allen noted that when the Committee votes on these articles, allowance should be made for the fact that if Article 22 is not approved, Article 23 becomes moot. Mr. Tepper emphasized the problems with fairness with the proposed article.

**Article 24. Bylaw reference.** Mr. Franks noted this just corrected the reference in the bylaw.

**Article 25. Zoning bylaws.** Mr. Franks confirmed that presently the only two non-criminal disposition bylaws are for disturbance and unregistered vehicles, and that the purpose of this article is to make all zoning bylaws fall under this classification, under the two categories of sign and non-sign offenses. In answer to Mr. Arnold's query as to whether small, temporary signs such as painters and roofers on residents' lawns were illegal, Mr. Franks explained that small, temporary signs, set off the road on residents' property, are allowed. There was some discussion of the process if a sign was deemed improper. Mr. Franks noted his knowledge of two cases in particular of home businesses which had been grandfathered into certain allowances, but had expanded significantly and were no longer appropriate for a residential area. He stressed that this article was not about the town trying to make money by fining residents, but about getting compliance. Mr. Behn was concerned that no guidelines for issuing warnings before charging fines were included in the article. Ms. Rosenblum Senie felt the intent of the article was to give the Building Commissioner a more effective way of enforcing zoning bylaws, not to go after minor offenses.

**Article 18. Charter Amendments.** Mr. Franks was asked about Article 18, specifically the amendment to Charter Article 4-2(b)(14). Mr. Franks felt the phrase "purchase and service" had no relevant meaning. Ms. Lown noted that the phrase may be meant to limit the kinds of contracts the Town Manager had the authority to negotiate. Mr. Franks held the view that it was in the town's interest to remove the phrase and did not think the change would give the Town Manager any more authority. He added that the language was confusing and that a creative lawyer could try to use it against the town.

Regarding the amendment to Charter Article 4-2(b)(10) (also under Article 18), Ms. Lown pointed out that the limiting phrase "except when requested by the School or Library Department" had been inserted after both provisions of the article, rather than after the one clause it was intended to refer to. Mr. Franks concurred that as it now stands, the change would apply to both clauses. Ms. Lown was concerned that with this change in place, the Town Manager could have full jurisdiction. Also, the language refers to Library Department/School Department rather than Library Trustees/School Committee. Mr. Franks noted that the intent of the article was to make sure that if the Town Manager's involvement was requested it would not be called into question. Mr. Arnold wondered whether the language was necessary since the School Committee and Library Trustees have full jurisdiction over their properties and nothing prevents them for asking others for help; similarly, the Selectmen could authorize the Town Manager to respond to a request from either. Mr. Linnane added that Mr. Malloy had assisted the Library with its HVAC issues, and that this change simply affirmed his right to be involved.

Joe Harrington was present to discuss the handout to voters he had drafted. He noted the Committee's concerns and had distributed a revised version. He explained that the handout was meant to communicate the significance of Town Meeting, and its specific function, as well as highlighting the major issues coming before the town. There was some discussion of a few further changes, as well as how to emphasize the list of major capital outlays.

Mr. Arnold reviewed the paragraph being contributed by the AFC which he had drafted and the Committee approved this statement. He also noted that the Committee is welcome to revoke any budget recommendations, if desired, in light of the Special Town Meeting's articles. There was some discussion about the DPW mechanic position which is being split between three budgets (DPW, Water, and Sewer). Ms. Lown felt this position was not a new hire, as a current employee is being moved from another position to fill it. She wondered if the DPW could promote this person within their budget, and noted that this move increases the number of employees receiving insurance benefits.

### **Voting on Budgets and Warrant Articles**

**Article 1. Town Election.** No action required.

**Article 2. Town Reports.** Ms. Lown moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**Article 3. Budget Transfers.** Mr. Arnold noted that according to Mr. Malloy there are none.

**Article 4. Classification Plan.** Mr. Arnold noted that further discussion on the Council on Aging budget would be needed before voting on this article. No vote taken.

**Article 5. Salary/Wage Schedule.** Mr. Arnold noted the two parts of this article, being the approval of a 1.5% adjustment, and the increase of the Veterans Assistant Agent's stipend from \$1,000 to \$4,000. Mr. Behn moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**Article 6. Budgets.** No vote taken.

### **Article 7. Regularly Recurring articles:**

**7a. CPR & First Aid Training.** Ms. Lown moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**7b. Youth & Family Services.** Ms. Lown moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**7c. Board of Assessors.** Ms. Lown moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**7d. AFC Reserve Fund.** No vote taken.

**7e. Recreation Department.** Mr. Behn moves to recommend the Town vote to Raise and Appropriate the sum of \$2,500 for the purposes of this article. The vote to approve the article recommendation is 8 in favor, 1 abstention (Linnane), with 9 being present.

**7f. Emergency Planning.** Ms. Lown moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**7g. Chapter 90 Roadway Funding.** Ms. Lown moves to recommend the Town vote to Transfer from available funds the sum of \$812,143 for the purposes of this article. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**7h. Health Care Reimbursement Account.** More discussion needed. No vote taken.

**Article 8. Capital Improvements Plan.** Ms. Lown would prefer to wait to see what the Board of Selectmen say regarding the Special Warrant. Ms. Blazejewski noted that the Library has yet to respond to the asbestos issue. Mr. Arnold to follow up. No vote taken.

**Article 9. Country Club.** Mr. Allen moves to recommend the Town vote to Transfer from the Country Club Retained Earnings and appropriate the sum of \$115,000 for the purposes stated in the article as printed in the warrant. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**Article 10. Crownridge Water Project.** No vote taken.

**Articles 11 & 12.** No vote taken.

**Article 13. Assabet Building Project.** Ms. Lown will write up a motion for a future vote.

**Article 14. Gibbons Project.** No vote taken.

**Article 15. School Department Engineering Consultant.** Mr. Behn moves to recommend the Town vote to Transfer from Free Cash the sum of \$40,000 for the purposes of this article. The vote to approve this article recommendation is 7 in favor, 2 opposed (Malone, Tepper), with 9 being present. Mr. Allen

asked that members' dissenting opinions be expressed before a vote is taken. Mr. Tepper thought that the School Department should handle this expense out of its existing budget. Mr. Malone felt the School Department's own personnel could handle the capital expenditures planning. Mr. Linnane noted that the department did not have the knowledge required to evaluate all the issues. Mr. Behn felt it was prudent planning practice to have an expert discover any mechanical issues which might lead to future borrowing.

**Article 16. Traffic Consultant.** Mr. Behn moves to recommend the Town vote to Transfer from Free Cash the sum of \$4,500 for the purposes of this article. The vote to approve the article recommendation is 8 in favor, 1 opposed (Tepper), with 9 being present. Mr. Tepper felt the Planning Board had internal assets to come up with the guidelines needed.

**Article 17. Triennial Reevaluation.** Time is needed to properly word the motion.

**Article 18. Charter Amendments.** Mr. Arnold asked the Committee to review this article noting where further clarification is needed. There was discussion about which version of the Charter was the final, up-to-date version, and where it could be found. Ms. Lown pointed out that a committee could be appointed at Town Meeting to review the bylaw and charter amendments. No vote taken.

**Article 19. Bylaw Amendment (Bonds).** Mr. Malloy had informed Mr. Arnold that the town could get a new copy of any lost bonds from the bond issuer. Ms. Lown moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**Article 20. Bylaw Amendment ("Town Coordinator" to "Town Manager").** Mr. Behn moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**Article 21. Bylaw Amendment (Fees).** Ms. Lown noted that fees are under the purview of the Board of Selectmen in any case. Mr. Behn moves to recommend the Town so vote. The vote to approve the article recommendation is unanimous, 9 in favor with 9 being present.

**Articles 22-25.** More discussion needed.

**Article 26.** Mr. Malone requested more time to consider this article.

**Article 27. Zoning Bylaw Change (36 W. Main St.).** Mr. Behn moves to recommend the Town so vote. Mr. Allen noted that there was no opposition to any of the three zoning articles. The vote to approve the article recommendation is 8 in favor, 1 abstention (Lown), with 9 being present.

**Article 28. Zoning Bylaw Change (44-46 E. Main St.).** Mr. Behn moves to recommend the Town so vote. The vote to approve the article recommendation is 8 in favor, 1 abstention (Lown), with 9 being present.

**Article 29. Zoning Bylaw Change (Overlay District).** Mr. Tepper felt that many properties affected by this change would not be able to take advantage of it due to the expense of renovations. Mr. Behn noted that Town Assessor Linda Swadel should be asked whether these properties would become potentially more valuable and how that would affect assessment, even if the property were not developed. No vote taken.

**Article 30. Open Space.** Ms. Lown requested more time to consider this article.

### **Committee work on draft Report and Recommendations**

Mr. Arnold and Mr. Behn are putting together a draft of the Committee's Report and Recommendations. Ms. Lown will find the wording used when Special Town Meeting and Annual Town Meeting are combined. Mr. Behn is looking into the effect of the Special Town Meeting articles on the tax rate.

### **Schedule of meetings planned through March 2012**

Mr. Arnold noted that in two weeks the Committee must finalize their report. There was discussion of scheduling another Finance Committee meeting due to the addition of a Special Town Meeting. Mr. Behn again stressed the importance of considering the entire financial picture, since the town may need to defer some ATM articles in order to move ahead with other STM articles, if those are deemed to have higher priority. Ms. Lown would like a current copy of the architect's plan and report relating to the STM articles. Saturday, March 3<sup>rd</sup>, at 10:00 a.m. was tentatively set as an additional meeting time.

**Chairman, Committee Liaison, and Department Liaison Reports**

Mr. Arnold reminded members of the Board of Selectmen meeting to be held next Tuesday, February 28<sup>th</sup>. He will send an agenda as soon as possible. He encouraged members to attend or watch the meeting on TV. He distributed information on three free meetings in May on OPEB organized by the Association of Town Finance Committees.

Ms. Lown had emailed a list of requested documents. Mr. Arnold will forward the request to Mr. Malloy.

Mr. Behn wanted to verify the budget numbers before continuing with the Committee's report. There was some discussion about the process for making sure the spreadsheet and recap numbers were accurate and up-to-date. Mr. Behn is trying to determine the effect of the borrow on the tax rate.

**Comments and Concerns of Committee Members**

Mr. Malone had forwarded the Committee's questions to School Superintendent Marianne O'Connor.

**Adjournment**

Mr. Behn moved to adjourn the meeting at 10:05 p.m. Vote to adjourn was 9 in favor, with 9 being present.

**Document List**

Mechanic % Increase to Budget spreadsheet.  
AFC Dept Meetings Budgets ATM FY13 spreadsheet.  
Appropriations Report Feb. 2012.  
Articles 12 & 13.  
CPI/PPI data.  
CPI/PPI spreadsheet.  
Moderator draft of election day handout.  
Open Space presentation.  
DPW Response to AFC questions.  
STM Motions.  
STM Warrant.  
Veolias Fee Tabulation.  
Warrant Article Summary spreadsheet.