

Members Present: Jo Lown, Chair, F. Robert Brown, Bill Linnane, Brigitte Casemyr, Judy Lucas, Ian Johnson, Michael Meachen. Absent: John E. Arnold, Kevin Cronin.

At 7:05 p.m. Ms. Lown called the meeting to order in the Selectmen's Meeting Room.

### **Open Forum**

There were no requests to address the committee.

### **2009 Fall Town Meeting Warrant Review**

Assistant Town Manager Maryanne Bilodeau presented several Article requests for funding, and reviewed the GIC Health Insurance option:

#### **Article 1 -- FY10 Budget Reduction – Town Insurance**

The town has saved over \$94,000 with insurance carrier MIAA by participating in savings programs for liability, workman's comp, auto, etc. offered by the company. Also, renewals for existing insurance beginning on 7/1/09 were lower than budgeted by \$41,000. Transferring these funds now should leave adequate funds in the budget. However, if renewals next spring come in higher than expected Ms. Bilodeau may need to request additional funds. The town has received only two invoices for unemployment insurance so far, and the last one was \$35,000 for one month which is higher than in past years. Town of Westborough is a reimbursable employer, and so must pay the state for each claim submitted. Due to layoffs over the last year this cost may be higher in the near future.

**GIC Health Insurance Option** – Ms. Bilodeau reported that the Board of Selectmen has voted to conditionally accept Massachusetts General Laws (MGL) Chapter 32B, Section 19 for the purposes of reviewing and transferring all subscribers to the State Group Insurance Commission (GIC) for health insurance. The next step was to set up a Public Employee Committee (review committee) composed of representatives of each union, and of retirees. This is a weighted committee, with each representative getting a proportional vote equal to the proportion which the number of employees eligible for health insurance their union bears to the total number of employees eligible for health insurance in all unions of the town. Retirees get a 10% weighted vote. The PEC will need to make a vote prior to December 1<sup>st</sup>. Mr. Brown noted that the GIC has gained many new members over the last year. Ms. Bilodeau agreed that a number of towns have adopted the insurance.

The town has begun the process required for joining this insurance plan. The GIC insurance policies include higher co-payments for some services than those currently paid by town employees. The plan also prohibits the town from assuming any of the increased costs to members from co-payments. The town would no longer be able to negotiate the terms of insurance policies, and would only be able to negotiate the portion of the premium paid by employees. If this is approved, it would be effective as of July 1, 2010.

#### **Art. 2 Buildings & Grounds, Street Light Budgets**

Ms. Lown asked if new budget estimates are based on actual usage. Ms. Bilodeau noted the price has gone from 5.8¢/kWh to 12.4¢/kWh. Ms. Bilodeau also noted that several late bills and back

bills came in after ATM, and are included in this year's costs. Joe Harrington, Town Moderator, pointed out that the large increase was partially due to the fact that the town benefited from a very good rate for several years. Ms. Bilodeau also noted that as prices have now gone down, the town is investigating the possibility of revising the current contract.

Mr. Brown asked how it is determined which street lights stay on. Ms. Bilodeau noted that most recently a change was requested by Chief Gordon to increase the wattage of the streetlights near all crosswalks, which was approved by the Board of Selectmen.

Ms. Bilodeau does not yet have information on savings that will occur due to the recent repairs to boilers at Forbes Municipal Building and Forbes Community Building, and to the HVAC system at the Senior Center.

#### **Article 6 – Removal of Liquor License Requirement**

The Mandarin Restaurant owners are hoping to have a site determined prior to STM. Ms. Bilodeau has spoken with the Licensing Board and does expect that they will allow STM approval without a specific location, as long as the location is finalized when the request is presented to the legislature. This will allow the Mandarin owners enough time to complete negotiations on a new lease.

#### **Article 9 – Amendment of Article 12 General Bylaws**

Ms. Bilodeau explained that Hawker-peddlers are vendors who have goods for sale but no fixed location. This amendment will only change the permitting authority from the Board of Selectmen to the Chief of Police. Chief Gordon already reviews applications for other similar permits, and agrees it makes sense for these permits to go through his office directly. Over the summer the Board of Selectmen only meets once per month, so it is difficult to be responsive to vendors.

#### **Approval of minutes – Meeting No. 3, FY2010, September 24, 2009.**

Mr. Johnson moved to approve the minutes of meeting No. 3, FY2010, September 24, 2009. The vote to approve the minutes was 6 in favor and one abstention (Casemyr), with 7 being present.

#### **Liaison Updates**

Ms. Lown has distributed updated information on town financial receipts and estimates, and funding sources for Articles, as prepared by Town Accountant Leah Talbot.

Ms. Lown questioned the amounts of transfers for electricity to the water and sewer retained earnings accounts. Mr. Johnson noted the shortages are partially due to back billing of accounts, mostly for the sewer funds, and confirmed the amounts as printed in the Warrant.

Mr. Linnane distributed his excerpts from the Jack Straw Brook drainage study that pertain to the Warren Street project. He has reviewed the entire report, and agrees with the choice of Option A2. Option A2 is designed for a 100-year storm, similar to that which occurred last year. Ms. Lown notes that the Jack Straw Brook drainage report is available for public review upon request to the DPW. Ms. Lown also asked if the diagram from the report be included in the presentation made to the town. Mr. Linnane will speak with Mr. Walden about the presentation at STM and about the communications with the homeowners, and Mr. Brown will speak with Derek Saari, Conservation Commission, about this project.

Mr. Linnane reported that the tree farm is still in existence, although there are not many trees in it at this time.

## **Discussion of 2009 Special Town Meeting Recommendations**

A table of votes is included at the end of these minutes.

### **Article 5 – Design and Permit Opticom Traffic Controllers**

Mr. Johnson noted the increased safety factor from this installation.

Mr. Johnson noted that articles this year include the language “transfer and appropriate” rather than just “transfer” or “raise and appropriate”. Mr. Harrington feels this is more than is necessary, but still appropriate.

### **Article 6 – Removal of Liquor License Restriction**

Ms. Casemyr is not in favor of supporting this article, as this would allow more restaurants to leave downtown Westborough. She noted that the town’s Master Plan includes a requirement that any new liquor licenses approved be limited to the downtown area, with a goal of retaining restaurant business within the area. She does not feel this makes sense to allow a business to move out of the Downtown Business District at this time. Mr. Brown agrees with Ms. Casemyr, and does not feel the owners should need to move out of Downtown. Mr. Linnane notes that the license is in the name of the Mandarin, and that the Bay State Common seems to not be suitable for their planned expansion. Mr. Johnson pointed out that the town approved a license request for a restaurant on Route 9 at the last ATM, and that the business has been operating in Westborough for many years and wants to stay, and so he supports this article. Ms. Lown also noted that this business has attempted to stay in their current location or in the Downtown Business District but has not been able to find a suitable location. Ms. Lucas appreciates Ms. Casemyr’s point, but agrees that as the restaurant has been in Westborough for many years and would like to remain in town, she will support this article.

### **Article 7 – Department of Public Works Rainstorm Reimbursement**

Ms. Lown asked Mr. Harrington for a ruling on whether the article as written could be amended to allow transfer of some funds from retained earnings rather than free cash, as it is not allowed to transfer funds from the general fund to an enterprise fund expense account. After review, Mr. Harrington ruled a transfer from retained earnings could not be made under this Article as written, but the portion of the funds which would be for the DPW general fund could be transferred.

### **Article 10 – Public Shade Trees Bylaw**

Mr. Brown asked if there was a way of determining what is considered a town tree, as there may be trees have been planted by the town on private property. Mr. Johnson notes the bylaw would include language that designates a town shade tree as defined by MGL Ch. 87, section 1.

Ms. Casemyr asked if this policy would require a change in practice for the DPW, and if so, what would be the cost of that change. She wonders if this is the time to ask the DPW to pick up the burden of a tree planting program. Mr. Brown also wondered how much tree planting the town currently does. Ms. Lown noted the requirement for notification of both the Board of Selectmen and abutters at least 7 days in advance of any public hearing on tree removal. Ms. Lown will invite Mr. Dodd to the meeting on Monday to answer these questions. Vote is deferred to Monday 10/5.

### **Article 12 – Warren Street Drainage Improvement**

Mr. Linnane will follow up to ensure residents are informed by DPW prior to town meeting. Mr. Meachen asked about the possibility of upstream issues continuing, and if those issues will necessitate more projects in the future. Mr. Meachen will support this article. Mr. Brown feels the problem is with the study that was done prior to the developments being built originally,

which was inadequate. Ms. Lown notes that there have been changes to the policy which will now allow a more broad review of a wider area before developments are permitted. She also feels that this area does need to be done quickly, and that this project may somewhat mitigate the upstream issues as well. Mr. Johnson notes that the drainage issues are widespread throughout town but that this is the most pressing.

### **2009 Fall Town Meeting Warrant Review (continued)**

#### **Article 10 – Public Shade Trees Bylaw**

Tim Dodd, Selectman, came to the meeting to answer the committee members' questions about the requested bylaw change to the AFC. Mr. Dodd is proposing the bylaw as one step in the process of gaining the designation of Tree City USA, a program of the Arbor Day Foundation. This designation will allow the town to benefit from the educational and technical services offered by the Arbor Day Foundation in cooperation with the USDA Forestry Department. The Arbor Day Foundation will provide signage. The designation may give the town an advantage when applying for grants connected with urban forestry. Mr. Malloy has experience with this program as Sturbridge is a tree city. Mr. Walden has noted that issues concerning town trees do come before the DPW, and that it would be helpful to have the rules codified as in this bylaw. Mr. Dodd states this will not add to the burden of work for the DPW, and should provide better guidelines for residents and the town when dealing with town trees. Mr. Dodd agreed that the definition of a public shade tree would refer back to the cited MGL. Mr. Dodd stated the tree farm has been restarted, and Mr. Linnane reported there is some inventory currently. Mr. Dodd noted the town does have a full-time Tree Warden. Mr. Dodd stated that this will not be an additional cost to the town.

#### **Article 11 – Abandoned and Foreclosed Property Registration**

Selectwoman Lydia Goldblatt presented the proposed bylaw amendment to the AFC. She stated she has heard from several town residents who have expressed concern about nearby houses that have been foreclosed and are no longer being maintained, and whose ownership is unclear. Mr. Franks, Town Council, researched the article and approved the language. This bylaw would give authority to the Building Commissioner to make sure the property is maintained safely, for example, that the water is turned off before winter. Mr. Inman, Building Commissioner, has had some difficulties with abandoned properties in the past. Mr. Johnson asked about the costs, and penalties for not complying. Ms. Goldblatt noted the costs are stated in the bylaw. Registration of a property is \$200, and the penalty for not registering is \$100/week. Ms. Casemyr asked about effectiveness of similar bylaws in other towns. Ms. Goldblatt reported that Mr. Malloy has gotten favorable reports on the effectiveness of this type of bylaw in Marlborough. The Building Commissioner is the stated enforcement officer for this bylaw. Ms. Lown notes there is an appeal process written into the law. Ms. Goldblatt also stated that it would be possible to put a lien on the property in order to recover unpaid fines. Ms. Casemyr noted this is only for residential properties, and Ms. Goldblatt agreed and feels that a bylaw amendment to add commercial property may need to be done at a future ATM. Ms. Lown stated her support for this Article.

Mr. Harrington explained that after approval at town meeting, the Attorney General has 90 days to approve any bylaw change before the bylaw takes effect.

### **Discussion of 2009 Special Town Meeting Recommendations (continued)**

#### **Article 13 – Work on Town Sewer System**

Ms. Lown notes this project has been on Capital Planning list. Mr. Johnson points out that the motion will be to transfer funds from Retained Earnings, and will have no additional impact to sewer rates, and that there is currently \$1,500,000 in the Sewer Retained Earnings account.

#### **Article 14 – Westborough Country Club Capital Improvements**

Ms. Lown asked for confirmation of \$20,000 amount. Mr. Brown will speak with Derek Saari, Conservation Commission, about drainage issues.

Vote on this Article deferred to October 5<sup>th</sup>.

#### **Article 15 – Special Education Costs**

Ms. Lown noted that town meeting cannot determine how the School Committee spends its budget, and so a transfer is to the School Committee and not specifically to the budget for Special Education costs. She suggests language be added to the recommendation to allocate the appropriation. Mr. Johnson and Ms. Lucas feel the motion should be to the general fund. Mr. Harrington requests that the motion should be specifically to the School Department. Mr. Johnson would like to change the listed sponsor in the AFC Booklet to School Committee.

Mr. Brown feels that the budget crisis requires cooperative and creative measures to save the best things in town. He fears the state aid and school aid budget are not going to increase in the near future. Mr. Johnson does not feel that people in town know the seriousness of the budget issues at this time. For the state, the easiest budget to cut is aid to cities and towns. Ms. Lown notes that the budget estimates given at this time show a shortfall that will get worse for the next several years. Ms. Lucas notes that the School Committee has budgeted very closely for maintenance and supplies in the past, but they will be soon hitting the time when replacements that are needed cannot be purchased. She noted that for a department of 3600 students to cut 28 full-time positions is a major loss.

Ms. Lown reminded the committee that in the past the town has been “saved” at the last minute by large, unexpected increases in revenue. Mr. Johnson and Mr. Linnane feel that public education and awareness of the issue needs to increase. Ms. Lucas pointed to unfunded state mandates as costing the town quite a lot of money. Committee discussed unfunded mandates.

Mr. Meachen asked how often unexpected costs such as this happen. Ms. Lucas says it happens every year. In the past a contingency amount has been included in the School Department budget, but beginning three years ago the contingency funds were not budgeted. This is the first time the School Department has made this request in the form of an Article, in the past this has been done as a transfer from other budget lines. Mr. Meachen asked if this is setting a precedent. Ms. Lucas notes that they tried to budget exactly what was required last year, and the contingency funds were not encumbered purposely. Ms. Lucas notes that because the enrollments are very fluid it is difficult to budget accurately until October. Ms. Lown would like to continue to not fund contingencies and to have these expenses voted.

#### **8:55 p.m. Report & Recommendation Booklet**

Ms. Lown nominates Mr. Johnson to be deputy chair, in case Ms. Lown and Ms. Lucas are both unavailable next week.

The vote to approve the nomination is 6 in favor and 1 abstention (Johnson), with 7 being present.

Ms. Lown will post a meeting for Monday 10/12.

Voting scheduled for Monday, October 5<sup>th</sup>, includes Articles 8, 16, 17, and 14.

Jim Malloy, Town Manager, will attend the meeting on Monday.

Ms. Lucas will meet with Mr. Malloy about summaries. Ms. Lown will get an opinion from Mr. Franks about allowable language in report related to elections.

Ms. Lucas distributed committee members' comments on the summaries for members to review. Discussion on this will be deferred until Monday.

Ms. Lown asked for committee members to send comments on the report to voters to her for discussion at the next meeting.

Ms. Casemyr asked about funding for the two unexpected State elections. Mr. Johnson expects Ms. Yendriga to make a request for a transfer at the end of the year to cover these costs. Mr. Meachen will follow-up.

Mr. Meachen will update the one-page recap summary published in the booklet.

Ms. Lown prepared two sample formats for booklet. Committee discussed and decided on one format.

The vote to use the format as prepared is 7 in favor, with 7 being present.

#### **Comments and Concerns of Committee Members**

Ms. Lown reminded members about October 3<sup>rd</sup> Arts in Common, and reported that the official name of the new park is Bay State Green Park.

#### **Adjournment**

Ms. Lucas moved to adjourn the meeting at 9:55 p.m.

Table of votes:

**Article 1 – FY10 Budget Reduction – Town Insurance**

Mr. Johnson moved to recommend the town so vote.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 2 – FY10 Budget Transfers**

Mr. Johnson moved to recommend the town vote to transfer \$47,123 from Town Insurance Expenses Account for the purposes of this article.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 3 – FY10 Sewer Budget Amendment – Electricity**

Mr. Johnson moved to recommend the town vote to transfer \$4,594 from Sewer Retained Earnings to Electricity – Sewer Account for purpose of this article.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 4 – FY10 Water Budget Amendment – Electricity**

Mr. Johnson moved to recommend the town vote to transfer \$19,037 from Water Retained Earnings to Electricity – Water Account for the purpose of this article.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 5 – Design and Permit Opticom Traffic Controllers**

Mr. Johnson moved to recommend the town vote to transfer \$17,000 from free cash for the purpose of this article.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 6 – Removal of Liquor License Restriction**

Mr. Johnson moved to recommend the town so vote.

The vote to accept the motion was 5 in favor and 2 opposed (Casemyr, Brown), with 7 being present.

**Article 7 – Department of Public Works Rainstorm Reimbursement**

Mr. Johnson moved to recommend the town vote to transfer \$56,107.64 from free cash to DPW expenditures for purpose of this article.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 9 – Amendment of Article 12 (Hawkers Peddlers Permit) Bylaw**

Mr. Johnson moved to recommend the town so vote.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 10 – Public Shade Trees Bylaw**

Mr. Johnson moved to recommend the town so vote.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 11 – Abandoned and Foreclosed Property Registration**

Mr. Johnson moved to recommend the town so vote.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 12 – Warren Street Drainage Improvement**

Mr. Johnson moved to recommend the town vote to borrow \$600,000 for the purpose of this article.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 13 – Work on Town Sewer System**

Mr. Johnson moved to recommend the town vote to transfer \$700,000 from Sewer Retained Earnings for the purpose of this Article.

The vote to accept the motion was unanimous, 7 in favor with 7 being present.

**Article 15 – Special Education Costs**

Mr. Johnson moved to recommend the town vote to transfer \$160,000 from free cash to School Department for purpose of this article.

The vote to accept the motion was 6 in favor and 1 recusal (Meachen), with 7 being present.