

**Westborough Board of Selectmen
Meeting Minutes
August 9, 2011
6:00 - X p.m.**

Present: Chairman Goldblatt, Selectmen Emery, and Johnson

Also Present: James J. Malloy, Town Manager, Kristi Williams, Assistant Town Manager, Gregory Franks, Town Counsel

Pledge of Allegiance

Central Massachusetts Regional Planning Committee- (Alt) Commissioners of Trust Funds (1)
Conservation Commission- (2 Non-Voting Associates)
Country Club Operating Committee- (1 Non-Voting Associates)
Historical Commission- (1 Voting Member/2 Non-Voting Associates)
Worcester Regional Transit Authority Advisory Board (1)

Open Forum

None

Updates on Local Aid Funding & Redistricting / Rep. George Peterson

Representative Peterson reported that the Redistricting Committee's public hearing is over and that they are still looking for input. He also informed the Board that the back bill from the \$65 million cut in the budget for local aid will be filled with reversion money which means a one-time disbursement for Westborough in the amount of \$70,870.00. Representative Peterson explained the redistricting process and that he and the other Westborough State Representatives are continuing to support the effort to make Westborough one whole district. The plan is to vote on the redistricting by the end of September; however it will most likely be challenged in court which may push the final decision to November or December. Mr. Malloy thanked the Representative and Legislators for their effort to make cities whole and that the \$70,870 will help to lower the tax rate.

Public Hearing to Consider Amending Westborough Traffic Rules and Orders Sect. 5-4 Prohibited Parking on Certain Streets to add: "Both sides of Flanders Rd. From Connector Rd. to the I-495 Overpass" / Chief of Police Al Gordon

Chief Gordon appeared before the Board to follow-up on complaints regarding the truck parking problem on Flanders Road in front of Whittier Rehab, and the destruction of the land from the trucks is on Town property. He has spoken to Whittier Rehab and Mr. Malloy about the issue and asked the Board to authorize the DPW to post "No Parking" signs on both sides of Flanders Road from I-495 to Connector Road. Connector Road is a state highway and by law, there is no parking allowed.

Selectman Emery's motion to amend the Town of Westborough Traffic Rules and Orders, Section 5-4 Prohibited on Certain Streets, to add the following street, both sides of Flanders Road from Connector Road to the I-495 overpass, was seconded by Selectman Johnson.

Vote: 3-0

Westborough Village Performance Security For Offsite Improvements / Carl Balduf, Shawn Nuckolls (Toll Brothers)

Attorney Christopher Senie, Shawn Nuckolls for Toll Brothers, and Carl Balduf appeared before the Board. Mr. Senie explained that they would like to begin off-site improvements and a performance bond and agreement are needed to begin the work within the seasonal weather limits. The amount for the bond has not been finalized nor the agreement, but Mr. Senie will report back to the Board with that information at the next meeting.

Selectman Johnson's motion to approve the Town entering into a performance agreement with Toll Brothers, subject to the Town Engineer establishing an amount of the performance security and that the performance agreement and/or bonds be in a form acceptable to Town Counsel and further to authorize the Town Manager to execute said agreement once the Town Engineer and Town Counsel have reviewed and approved was seconded by Selectman Emery. Discussion: Mr. Balduf agrees with the proposal as documented and that the timing of this approval will follow the format used in prior similar projects for off-site work. He reviewed the Fisher and Gleason Street's improvements which include drainage, new utilities, realignment of the intersection, developing a biking/walking path to the station, corresponding improvements to the Fisher Street and Smith Valve Parkway intersection, installing a signal at Otis Street and Smith Valve Parkway and improvements to the Fisher and Maynard Street intersection. Vote: 3-0

Request to Re-appoint a Member to the Trustees of Soldiers Memorials / Denzil Drewry

Mr. Drewry was unable to attend tonight.

Selectman Emery's motion that Denzil Drewry be approved to continue his position on the Trustees of Soldiers Memorials Committee was seconded by Selectman Johnson. Vote: 3-0

Request to Appoint a Member to the Youth Commission / John Badenhansen, Christine Anthony

Mr. Badenhansen informed the Board that the Youth Commission voted unanimously at the June 13, 2011 meeting to recommend that Christina Anthony be appointed to the Commission.

Selectman Emery's motion that the Board appoints Christine Anthony as a voting member for a three-year term filling the position vacated as of June 30, 2011 was seconded by Selectman Johnson.

Discussion: Ms. Anthony reviewed her background for the Board. Vote: 3-0

Request to Appoint 2011-2012 Election Officers (per list submitted by Town Clerk) / Town Clerk

Mrs. Yendriga explained to the Board that there will be a need for the election officers to work four elections in 2012. There is a mix of party representation and all the names on the list have been approved by both the Democratic and Republican Town Committees.

Selectman Emery's motion that the Board appoint the Election Officers as listed on the attached 2011-2012 Election Officer list in the Selectmen's book dated September 1, 2011 to August 31, 2012 was seconded by Selectman Johnson. Vote: 3-0

Request for Board Signatures on Short-Term Borrowing Paperwork / Treasurer-Collector

Selectman Johnson recused himself from the discussion and vote which would necessitate a unanimous vote in favor to carry. He may sign the document if the motion carries to enable a necessary quorum of signatures, affirmed by Town Counsel.

Selectman Emery moved the recommendation of the Town Treasurer for an interim loan note of \$1,424,000 at .16% annum to pay the Massachusetts Water Pollution Abatement Trust and it was seconded by Selectman Goldblatt. All three Selectman signed the documents. Vote: 2-0-1 (Johnson)

Selectman Johnson recused himself from the discussion and vote. The second item Ms. Savignac addressed was for a bond anticipation note through the State House for various projects, Weld/Folly water, South Street water and drainage on Warren Street.

Selectman Emery's motion to approve the borrowing as per the attached motion and the advice of the Town Treasurer was seconded by Selectman Goldblatt. Discussion: There were four bids and Eastern Bank won with an interest rate of .95%. Vote: 2-0-1 (Johnson)

Request for Common Victualer Permit at New Mandarin Restaurant Location / Atty. Douglas Resnick

Attorney Resnick appeared representing the Mandarin Restaurant's request to change the address on the common Victualer permit.

Selectman Emery's motion to approve changing the address listed on the Mandarin Restaurant's common Victualer permit from 57 East Main Street to 132 Turnpike Road was seconded by Selectman Johnson. Discussion: Attorney Resnick thanked all the Town departments involved in the process. Vote: 3-0

(cancelled at petitioner's request) Request by Bertucci's Italian Restaurant for Liquor License Change of Manager / Sandra Woodin, Peter Lyford

CSX Public Hearing

As they had nothing to report tonight, CSX requested that the hearing be continued to the September 13, 2011 meeting. Mr. Malloy recommended that it be continued on September 13, 2011 at 6:45 p.m.

Selectman Emery's motion to continue the CSX public hearing to 6:45p.m. on September 13, 2011 was seconded by Selectman Johnson. Vote: 3-0

Pavement Markings Bid Award / Town Manager

Mr. Malloy recommended the Board approve the DPW Manager's recommendation letter to award the bid for the pavement markings to Hi-Way Safety Systems.

Selectman Emery's motion to award the pavement markings bid to Hi-Way Safety Systems, Inc. for items 1-6 as per their bid was seconded by Selectman Johnson. Vote: 3-0

Contractual Cleaning Bid Award / Town Manager

Mr. Malloy prepared a comparison between in-house cleaning and privatizing the cleaning to a contractor. Jan-Pro was the lowest bidder of the three at \$8,016 annually saving the Town \$48,473 the first year.

They are the same company that is cleaning the DPW offices and the DPW Manager highly recommended them.

Selectman Emery's motion to award the Town Hall Cleaning Contract to Jan Pro Cleaning Systems in the amount of \$668 per month as per the attached proposal and further to authorize the Town Manager to sign the agreement between the Town and Jan Pro Cleaning Systems was seconded by Selectman Johnson. Discussion: Mr. Malloy informed the Board that Jan Pro Cleaning has committed to the same price for the second and third years. This will necessitate a Special Town Meeting vote to transfer the funds from the salaries account to the expenses account. Vote: 3-0

Request for Class I Dealer's License by Herb Chambers Hyundai of Westborough / Atty. William Bloom

Attorney Bloom reviewed the plans previously approved by the Board, which depicted all three dealerships, Herb Chambers Hyundai, Ford and Infiniti of Westborough. The amendment to the Ford dealership is to delete the reference to 75 Otis Street as a sale facility and Ford trucks and vehicles will be sold at 310 Turnpike Road only. The amendment to the Infiniti plan relocates ten spaces, plus adds one more, to Ford's side as Infiniti was parking their inventory in those spaces which were located in front of the Hyundai building. The plan contains an approved parking legend. The new license is for Hyundai to sell vehicles from the 75 Otis Street location. Attorney Bloom explained that the black areas on the plan represent customer/employee parking and the yellow represent inventory spaces.

Selectman Emery's motion to approve the Class I New Car Dealer's License for Herb Chambers Hyundai at 75 Otis Street subject to the following conditions:

1. All Conditions are met as outlined in the Planning Board's Special Permit 07-2 and as allowed under Westborough Zoning Bylaws Section 1243 & 1244.
2. All conditions are met as per the 2007 site plan approval of the Board of Selectmen and dated 11/30/10.
3. All fire lanes are to be clearly striped and marked and are to be maintained free and clear at all times.
4. No gates or fences shall be in place that would restrict or prevent Public Safety Departments access around the site at all times.
5. The site plan shows exact locations of fire lanes, access routes and numbers of vehicles for customer parking, employee parking and display parking and that these lines be painted as shown in the plan; cars shall be parked only in marked spaces.
6. Strict adherence to parking plan as per the site plan approval entitled "Herb Chambers Ford/Infiniti/Hyundai/310 Turnpike Road/312 Turnpike Road/75 Otis Street, dated 9/16/10 by Cullinan Engineering; with loading and unloading to be done on site.
7. Prior written approval is necessary before implementation of any promotional gimmicks, blimps, banners, large spotlights, temporary signs or other types of display or demonstration that may attract the attention of the public or drivers on Route 9.
8. Any changes to these restrictions or future expansion to the dealership or location or onto adjacent property must be reviewed and approved by the licensing authority.

was seconded by Selectman Johnson. Discussion: In response to Selectman Johnson's question Attorney Bloom explained that the plan is to open the dealership tomorrow at 9:00 a.m. if the licenses are available subject to some other issues. Vote: 3-0

Request to Amend Conditions on Class I Dealer's License by Herb Chambers Ford of Westborough / Atty. William Bloom

Selectman Emery's motion to amend the Class 1 New Car Dealer's License for Herb Chambers Ford at 745 Otis Street subject to the following conditions:

6. Strict adherence to parking plan as per the site plan approval entitled "Herb Chambers Ford/Infiniti/Hyundai/310 Turnpike Road/312 Turnpike Road/75 Otis Street, dated 9/16/10 by Cullinan Engineering; with loading and unloading to be done on site.

And that all other conditions of the original approval continue was seconded by Selectman Johnson.
Vote: 3-0.

Selectman Goldblatt pointed out that she has been by early in the morning and has seen unloading on the street and not on site. Selectman Emery expressed concern at seeing trucks parked on Route 9 in front of the Herb Chambers Honda dealership. Mr. will address the issue.

Request to Amend Conditions on Class I Dealer's License by Herb Chambers Infiniti of Westborough / Atty. William Bloom

Selectman Johnson's motion to amend the conditions of the Class 1 New Car Dealer's License for Herb Chambers Infiniti at 312 Turnpike Road, originally approved 3/11/08 by amending condition #6 to read:

6. Strict adherence to parking plan as per the site plan approval entitled "Herb Chambers Ford/Infiniti/Hyundai/310 Turnpike Road/75 Otis Street, dated 9/16/10 by Cullinan Engineering; with loading and unloading to be done on site.

And that all other conditions of the original approval continue was seconded by Selectman Johnson.
Vote: 3-0

DPW Vacancy / DPW Manager

Mr. Malloy informed the Board that due to a retirement the DPW would like to replace the position and is requesting the Board's approval.

Selectman Emery's motion to approve filling the vacancy at the DPW for discussion purposes was seconded by Selectman Johnson. Discussion: Mr. Malloy explained that the position is in the Cemetery Department and the position has been vacant for about a month and a half to two months. In reviewing the DPW's staffing over the past ten years, Mr. Malloy found that they have cut back and there were four positions that were never filled. Mr. Malloy recommends that the Board approve the request.

Vote: 3-0

Town Counsel Report

Nothing to report

Town Manager Report

Asst. Town Manager Kristi Williams has completed the Public Contracting Overview certification seminar which is the first step of becoming a certified Procurement Officer. The plan is for Ms. Williams and Town Accountant, Leah Talbot, as well, to complete the certification process.

Go Green Solutions / James Kelly

Mr. Kelly and Mr. Fisher appeared before the Board and reviewed the proposal for a sponsorship recycling program for the Town. The program addresses the need for public space recycling, increases public awareness, promotes the Town as a green community, and reduces waste/littering in downtown areas. There is no cost to the Town, Go Green Solutions will manage the bins, removal of the materials, and will find the vendors for the sponsorship panels. The Town will have final approval on the sponsorships and will have marketing space as well. The Board reviewed samples of the bins in the handout. Single day programs are available as well for special events. The company is based in Grafton.

Comments, questions and concerns from the Selectmen were discussed:

- The Town will have marketing space and it can be changed by contacting as often as is needed; local businesses' sponsorships will contribute to the community effort.
- The frequency of emptying the bins is determined by volume and the company can be contacted if there is a need before the scheduled pick up.
- Information regarding the savings for the Town from the DPW Manager will be needed for consideration.
- Other departments and community organizations should have input as well regarding the need and coordination with their events.
- A pilot program is offered with six bins, but the Town can start with two.
- According to the bylaws, if the bins are located on public property the final approval for the advertising would come before the Board of Selectmen; they are not allowed on public property.
- One Board member did not find the bins to be attractive and that they receive money for advertising on the Town's property.

The Board thanked Mr. Kelly and Mr. Fisher for the presentation.

Dunkin Donuts Site Plan / Town Manager

Appeared before the Board: Donald Borenstein, Johnson & Borenstein, LLC; Scott Thornton, P.E., Vannasse & Associates; Michael Scott, Waterman Design Associates, Inc.; Jim Robbins, Town Planner

Mr. Scott reviewed the original plans from 2002 of the 2,100 square foot building with twenty-seven parking spaces. A drive-thru was included at the time but had to go before the Zoning Board of Appeals as it was a pre-existing non-conforming condition, industrial zoned and the site did not meet the Open Space requirements. The drive-thru was removed from the plans to meet compliance. In March 2010 a building permit application for the current plan, reconfiguring the parking lot to accommodate a drive-thru. Mr. Scott explained the changes to the site. This plan was approved by the Conservation Commission prior to the submission to the Building Commissioner and subsequent to that was submitted to the Design Review Board and approved, with the addition of evergreen shrubs (3'-5') along the front of the building between the sidewalk and the drive-thru to screen it and realigning the crosswalk and installing the same as what is in the rotary to distinguish it. There could be seven to nine (7-9) cars in queue on the site at any given time. A flood plan is in place for the site.

Chief Gordon requested that the agreement include that Dunkin' Donuts will be responsible for the cost of a police officer to direct traffic if there is a backup in the flow on East Main Street. Mr. Robbins stated that a concern of the Planning Board is the traffic and the queuing internally on the site as well as externally. Because of this concern MDM Transportation Consultants, Inc. was hired to perform a transportation peer review.

Robert Michaud of MDM Transportation Consultants distributed the summary of their peer review findings. Town Counsel has already reviewed the report. Mr. Michaud explained that the original review submitted in April, 2010 was augmented by the April 26, 2011 report which compares the site to five other operations with similar characteristics to see how it would function and what the impact might be to the surrounding sites. He reviewed the aerial view and pointed out that patrons were parking in the adjacent lots, most likely for convenience and that there could be impact to the sandwich shop, salon, chiropractor and medical center, where ambulances frequent. The site line to the parking area is currently impaired due to the topography and will be further impaired by the drive-thru lane; patrons will not be able to determine the availability of parking or how many cars are lined up to exit Colonial Drive onto East Main Street until they are committed to turning onto Colonial Drive and there is no recourse. The comparison sites have the capacity for 117 cars per hour and the applicant applied the statistics to this site and projected during peak season there could be approximately 100 cars per hour. Mr. Michaud's concern was that when the queuing algorithm was used there would be the ability to store five vehicles between the pick-up window and the crosswalk, six more before influencing the access to the driveway and at peak seasons there would be up to fifteen at a time which would affect the operation of the driveway. This would be representative of four months out of the year. Using the same model the applicant has determined that the driveway will be affected 20% of the time. Mr. Michaud also pointed out that the left turn lane's queue is typically two to four vehicles, which the applicant's analysis confirms, and there is no way for an ambulance or patrons for the other businesses to bypass. Not presented in the queue extension is that if a Dunkin' Donuts patron wants to park they would be unable to get to the parking lot, which is a major concern. There are also concerns about how the queue will affect the mainline stream of traffic.

A site issue is that the applicant is unable to have a bypass lane next to the drive-thru lane, which improves the efficiency of the drive-thru. The applicant's surveyed sites all have bypass lanes. The drive-thru lane proposed is ten feet wide with a landscaped buffer and a mountable curbing along the south side, which was approved by the Conservation Commission. The mountable curbing would not be usable in the winter when there is snow, or in the spring when the property is wet. Regarding the parking capacity, Mr. Michaud pointed out that the projected at peak demand is fifteen; they have observed at least eighteen and others in the adjacent lots despite available parking, which makes downsizing to twenty a constraint. Mr. Michaud reviewed the issue of the traffic on Route 30 and that there is no way to get around a car turning left onto Colonial Drive. He would advise constructing a left turn lane for the applicant's benefit as well as the public's. Mr. Michaud stated that there are substantial constraints related to the drive-thru window based on the information submitted by the applicant, which they agree with.

Scott Thornton informed the Board that they supplied a list of ten stores with data for comparison and the peer review consultant chose five of those ten. Initially in 2002, the estimates were for 376 vehicle trips during the peak hour with a drive-thru and in 2009 it decreased by 53% from what was projected. In using the data from another store owned by the proponent that added a drive-thru there was a 31% increase in transactions. Combining this information and data from an industry source the projection was for 219 vehicle trips during peak morning hours. The peer consultant requested additional information regarding counts and used ranges two to twenty-four hours in length. The trip generation result was 244

in an average month and 272 during peak months. The queue algorithm the peer review used predicted a queue length in the 95th percentile meaning that the queue would only exceed the projected trips 5% of the time during the peak hour, which is equivalent to two minutes. It is not Vanasse Associates preference to use that algorithm and Mr. Thornton pointed out that when the peer consultants request studies it is not usually based on a theoretical algorithm, but on existing stores, which they provided. Their five stores produced an average of nine vehicles in queue. They did not recommend the use of the algorithm as when they used the data from their Hudson store it predicted twenty-four in queue where they observed only eleven. Mr. Thornton stated that it is considered an overly conservative way of predicting especially for fast food restaurants. He explained that the parking counts were based on the five stores, fifteen spaces were adequate and it was not relevant to consider the parking use for one day at a store without a drive-thru. Mr. Thornton addressed the issue of a bypass lane, which are typical, but not universal. He pointed out along with other examples, that the Wendy's restaurant in Westborough does not have one. They have a plan with a large vehicle that is able to fit and turn without difficulty in the ten-foot wide lane. Regarding the intersection of Route 30 and Colonial Drive, Mr. Thornton stated that alternatives were provided but not agreed to. He also stated that the peer review study does not accurately reflect the data at the site and what is expected to happen at the site.

Mr. Michaud responded that he does not disagree with Mr. Thornton's statement regarding the observed data. They did observe a queue of seven to eleven vehicles during a month that was 22% below the peak. Mr. Michaud stated that his scenario reflects peak season and he stands by his statements.

Comments by the Board:

Selectman Johnson

- Appreciated the presentations from both sides
- Questioned if all appropriate boards have received the information distributed and Mr. Malloy informed him that a lot of it was received today and they would not be prepared to make any recommendations tonight.
- Questioned where the loading/unloading zone will be for the delivery trucks and the response from the applicant was that it could be scheduled for non-peak times.
- From a walker's standpoint there are concerns about using the walkway and crosswalk, which are the only access options, to get to the site and the Police chief will be asked for his comments on this safety issue.
- There is a bus stop for Assabet on that walkway.

Selectman Emery

- Reiterated the controversy when the original building was built and that it has been part of the contribution to slowed traffic.
- The line of site is a concern as it is a critical place downtown for the greatest chance for a traffic bottleneck.
- Documents should include that any costs for a police detail should be paid by the applicant.
- Parked cars in the back of the building and on the Cedar Swamp side will be backing out into oncoming traffic.
- There will be trees removed, are they on Town property.

- The algorithm has to be overly conservative due to the issues and as not everyone understands what an algorithm asked that the next presentation be more user-friendly.
- Regarding the bypass lane and that Wendy's does not have one, they are enclosed in a very large area and not right on a main road. If a vehicle cannot make the turn in the drive-thru lane it will be a disaster.
- As the line of site is poor cars will be stopping to decide whether or not to pull in.
- It is a poor design regarding the visual impact as the cars on Route 30 heading east will see cars coming toward them from in the drive-thru lane and the strip of land between the road and the drive-thru does not appear to be more than a car's width.
- Quantitative data needs to be provided on the other traffic entering Colonial Drive that is going to businesses other than Dunkin' Donuts.
- The loading/unloading is a concern, there needs to be space to do it, and it would set a bad precedent to allow the applicant to do it anytime so as not to be there during peak hours.

Selectman Goldblatt

- Agreed with the concerns of Selectmen Johnson and Emery.
- Concerned with the ability of ambulance/fire/police vehicles being able to access Dunkin' Donuts and the other businesses when both lanes of Colonial Drive have vehicles queued up.
- Loading/unloading is a concern.
- Selectman Goldblatt took issue with Mr. Scott's response to Selectman Emery's question regarding the space between the drive-thru lane and Route 30 that Selectman Emery had asked a simple question and deserved a simple answer. Mr. Scott stated that could not answer a question he did not understand.

Selectman Emery asked if there are regulations regarding bypass lanes and Mr. Robbins informed the Board that there are no regulations, however the Town is looking at developing their own standards.

Attorney Borenstein addressed items raised by Mr. Michaud that they used a computer to generate that on the busiest day there would be fifteen cars in queue with a two-minute wait time; the study results of the five stores that Mr. Thornton provided at the request of MDM Consultants showed the average maximum length of the queue to be 8.4 cars. It is their intent to convince the Board that in a realistic design review of this site it will operate safely. Attorney Borenstein pointed out that when he drove through the Honey Dew site, which has a bypass lane, it is difficult to get around a car that is stopped at the window and a bypass lane is not a required element. He maintained that the ten-foot wide lane is not an imminent safety threat and compared it to the twelve-foot width of interstate highway lanes and that the parking requirements are in compliance and the study indicated there should be fifteen, and they have provided twenty. Attorney Borenstein stated that it is their conclusion that the site will operate under the conditions that will really be experienced as shown in their report.

Selectman Emery's motion to continue the public hearing to amend the site plan for Dunkin' Donuts until September 13, 2011 at 6:30 p.m. was seconded by Selectman Johnson. Vote: 3-0

Liberty Fund Resolution / Tim Dodd

This item will be continued due to Selectman Dodd's absence from today's meeting.

Issues and Correspondence of the Selectmen

Selectman Goldblatt asked to remember the eight navy officers that were recently killed in the helicopter crash and the men and women so far from home. Selectman Goldblatt provided an update on the 9-11 10th Anniversary Memorial plans.

Adjourn Open Session

Selectman Emery's motion to enter into Executive Session at 8:45 p.m. to discuss the firefighters' grievance and the value of real estate as both subjects being discussed publically may be disadvantageous to the public was seconded by Selectman Johnson.

A roll call vote was taken:

Selectman Johnson – yes

Selectman Goldblatt – yes

Selectman Emery – yes

Submitted by Paula M. Covino

Chairman Goldblatt

Vice Chairman Dodd

Selectman Emery

Selectman Thompson

Selectman Johnson