

**Westborough Board of Selectmen
Meeting Minutes
October 25, 2011
6:00 p.m. – 7:55 p.m.**

Present: Chairman Goldblatt, Vice Chairman Dodd, Selectman Emery, Thompson and Johnson

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

Request to Approve the Board of Selectmen's Meeting Minutes

Selectman Emery's motion to approve the minutes of August 9, 2011 as presented was seconded by Selectman Dodd. Vote: 5-0

Resolution to Support H1972 "An Act Regulating Election Primaries / Town Clerk

Mrs. Yendriga came before the Board to ask for support to change the date of the state primary election from September 9 to the first Tuesday in June. Some of the benefits include the extension of time to send ballots to military personnel overseas and cost savings of \$8,000,000 by combining the state election and the Presidential primary. Of the thirty-four towns in Massachusetts that have responded to this request, twenty-six have said yes, six have the issue on an agenda to be voted, and two have taken no action. Mrs. Yendriga is in favor of this change. All elections cost the same no matter how many people show up to vote. There is no guarantee that this will pass.

Selectman Thompson's motion that the Board sends a letter of support in favor of H1972, An Act Regulating Election Primaries was seconded by Selectman Dodd. Vote: 5-0

Request to Combine Presidential Primary and Town Election / Town Clerk

Mrs. Yendriga came before the Board to request that the Presidential Primary and Town Elections be combined. The advantages, explained further in the handout are increased voter interest and turnout, cost savings, voter convenience, impact on staff, and Town Meeting can be moved to the original date of March 17, 2012. Challenges outlined in the handout are separate voting lists and check-in/check-out, precinct staff and training, ballot boxes, and the possibility of the Presidential primary date being moved up.

Selectman Johnson's motion that the Board approves combining the Presidential Primary and Town Election in 2012 was seconded by Selectman Emery. Vote: 5-0

Redistricting Update / Representative Matthew Beaton / Representative George Peterson / Representative Carolyn Dykema

Representatives Peterson, Beaton, and Dykema came before the Board to discuss the redistricting results. The Board was disappointed in the results and asked for the rationale to be explained.

Rep. Peterson explained that the recommendation came out last week and that it was somewhat unprecedented for a Redistricting Committee to release a map prior to legislation being written and sending a committee to the floor for debate. There was a lot of input, but he was not happy with the results, especially for Westborough as the desire was for the community to have one, or even two representatives. Rep. Peterson has the most populated district, with 48,000 and had to lose two precincts. Rep. Beaton has Precincts 4 and 5 now, Rep. Dykema keeps Precinct 2 and Steven Levy from Marlborough will take on Precincts 1 and 3. The rationale was that it was not possible to create a single district even if Westborough was made whole. Rep. Dykema explained that the districts are based on population, each with approximately 41,000 constituents, and because the census is used, district boundaries change over the years, some becoming larger and others smaller. Rep. Beaton explained that districts have to be contiguous for the representatives to be effective. Other contributing factors are that a computer program is used which cuts and pastes the districts and incumbent legislators have more input to the makeup of their district. Selectman Goldblatt questioned who is representing the Town in Boston.

Selectman Thompson stated that this is a significant community with the amount of jobs that are produced and what is given to the State in taxes and yet our local aid gets cut. He could accept the Town being split if there were one precinct that held the majority of voters in Westborough. Selectman Thompson described the result as a failure as the Board's expectations were made clear. He read excerpts from an issue of the Boston Globe which were discrepancies in the way the Town is being treated relative to others; it has been this way for ten years and will now be another ten and it is not fair to Westborough. Selectman Thompson asked them to triple their efforts.

Rep. Dykema explained that the Chelsea situation is a legal issue and the Representatives can express the Board's feedback and concerns. She explained what the advantages are to having multiple representatives. Selectman Thompson stated, with all due respect, that he is concerned that they, as well as legislators at the State House, are deferential and the situation will not change.

Rep. Beaton informed the Board that he worked with his legislative aide to create a different scenario, made proposals to Representative Moran and advocated for them. They did not work because in order to facilitate the greater numbers of Worcester, it had a domino effect and there would another split town.

Selectman Goldblatt asked the Representatives if this change cannot be made, to concentrate on more state aid for the Town. Selectman Johnson expressed his disappointment, that there is no continuity, and the Town has lost one of its representatives and will have someone new from Marlborough that does not know the community. He also pointed out that Marlborough is considered an economic competitor, Rep. Levy sits on the city council, the outcome is not what he hoped for and feels bad for the residents of Westborough. Selectman Dodd, while realizing that it is not an easy task, pointed out that the House Chairman stated that the number of split towns was decreased from 25 to 21. He suggested there be a population threshold for splitting towns and that ten years should be the limit as this has been frustrating for Westborough and will have to spend twenty years in this situation. Rep. Beaton stated that he will represent

Westborough as a whole no matter what precincts he has and could investigate legislation to limit the time a Town can be split to ten years. Rep. Dykema is also pleased to continue to represent the Town. Rep. Peterson stated that he has had a long history with the Town, it is a great community and he will continue to support it.

The Board thanked Representatives Peterson, Beaton and Dykema for attending.

Westborough Sprint Triathlon / Mark Walter

Mark Walter, Bill Linnane and Gerry Gross came before the Board requesting approval to hold the 3rd annual Westborough Sprint Triathlon at the Westborough State Hospital again in 2012.

Selectman Emery's motion that the Board approves the Westborough Sprint Triathlon to be held on Sunday, August 19, 2012, subject to all of the requirements of the Police Chief and Fire Chief being met was seconded by Selectman Johnson. Discussion: Mr. Walter assured the Board that he has worked closely with Police and Fire Chiefs and they are in support of event. The event begins and ends at the State Hospital. The proceeds benefit the Rotary Club and other local charities. Vote: 5-0

Open Forum

Jason Nappa from the Historical Commission informed the Board that they are sponsoring an event tomorrow night, October 26, 2011, called "Time Travel in Cedar Swamp via Archaeology" in the Forbes Municipal Building Auditorium at 7:00 p.m. October is Massachusetts Archaeology month, this event is free of charge and Mr. Nappa invited the Board and community to attend.

Upton Road Storm water Runoff – Resident Stephanie Kelley / Town Manager

Stephanie Kelley and Dave Talbot appeared before the Board to discuss the water runoff that is affecting her property at 131 Upton Road. Ms. Kelley explained that after sewer line installation in 1971 the road was re-graded which caused water runoff onto her property and the neighbors' as well. Subsequently Cape Cod berms were installed along Bowman Street, Upton Road and Crossman Street and the problem increased. The DPW was contacted and berms were installed at the end of her driveway and the neighbor's, which has been successful in controlling only the flooding in the neighbor's yard. Ms. Kelley expressed concern that the storm drains may be emptying into her yard, that there is erosion along the house foundation, and the effect this is having on her leach field.

Mr. Walden spoke to the history of the water and sewer work that was done on those streets, that it did not change the impervious area of the street and that the water that runs downhill cannot be stopped. The DPW has tried to control the water flow. Mr. Voutas verified that rolls placed on the end of Ms. Kelley's driveway are low as the cars are low to ground and he was concerned that the bottom of the cars would hit it. Mr. Walden stated that when they restore a roadway they try to match the driveways.

Selectman Thompson referred the issue to the Town Manager. Ms. Kelley was asked to drive her car over the neighbor's roll at the end of their driveway to ensure that the height of the car is

sufficient before a higher one is installed on her driveway. The Board asked that Mr. Malloy work with Mr. Walden and Mr. Voutas to see if anything has changed in that area and try to resolve the issue.

Request to Support Removal of Age Restriction – Park Place / Sotir Papalilo, Westwood Associates

Mr. Papalilo came before the Board to request the removal of the “Over 55” age restriction on the Park Place development as they have not been able to sell homes due to marketing difficulties and the economy. They pulled the building permits and have done some site work.

Selectman Thompson’s motion to lift the “Over 55” age restriction from the Park Place development was seconded by Selectman Johnson. Discussion: Mr. Htway informed the Board that he spoke to the Zoning Board of Appeals (ZBA) last night and they were not in favor of the change as it had already been approved with the condition and there were concerns regarding the issue of bringing in more school age children. Mr. Htway distributed copies of the ZBA minutes for the Board to review. He also distributed the minutes from the discussion with Mr. Papalilo at the May 23, 2011 ZBA meeting. Mr. Htway’s opinion is that Mr. Papalilo should appear before the ZBA to ensure the comprehensive permit meets all the requirements of the Town before the restriction is removed. A significant issue of concern is that the comprehensive permit would need to include, for example, park space and bus stops, to accommodate children. Mr. Liedell, Chairman of the Housing Partnership Committee, explained to the Board that they approved the change as it had minimal impact as the development was reduced to twelve units including three as affordable, which would be most likely be purchased by families. The Town is currently below the 10% requirement and this would increase the percentage. It is Mr. Liedell understands that Mr. Papalilo is looking only for a recommendation from the Board and the final approval must come from the ZBA. It was discussed with the State and there is no change to the plan according to them.

In response to Selectman Johnson’s question, Mr. Papalilo explained the layout of the individual units. Selectman Dodd confirmed with Mr. Liedell that initially the affordable housing application did come before the Board for approval and as the State has determined that there are no plan changes the Board’s approval is not required. Mr. Liedell explained that Mr. Papalilo chose to come before the Board to inform them of the change and to obtain their recommendation to proceed, as was done with the Housing Partnership Committee, and bring those recommendations to the ZBA.

After reviewing the ZBA minutes from May 23, 2011, Selectman Thompson’s disagrees with statement that the real estate market has not changed since 2007, that is has changed significantly for the worse the request to remove the restriction is not unreasonable. He also does not agree that there would be a significant impact on the school system and therefore supports the request. Selectman Emery’s concern was the appearance of a “bait and switch” situation where developers come to the Town and request certain concessions because of the things they are doing, are granted them and then come back later to change what was originally proposed expecting the same benefits that were applied under those circumstances. She is also concerned about an unfinished site, Mr. Papalilo losing money, and jeopardizing the need for affordable

housing. Selectman Emery's is also concerned that the Town may be giving up important items, although Mr. Papalilo did make the ZBA's required reduction in the size of the development. If the age restriction is lifted Selectman Emery asked for assurance that the Town will be made whole on the items it gave up and that there may be things that the Town does not want to give up if there are more changes. The ZBA is would ensure that the developer would follow through with what is required and would protect the Town.

Mr. Papalilo thanked the Town for their generosity and explained why the project has taken so long to develop.

Selectman Golblatt's concerns were that the Town has already granted many waivers, they have made several changes and are again coming back for another and she will not support the request.

Mr. Papalilo explained that he is working in partnership with the Board and if they deny the change he will not go before the ZBA and hopes that the ZBA will change their mind if the Board should support the request.

Selectman Johnson informed the Board that a neighbor of the site contacted him, would like to see something built there and that he is in favor of the request.

Selectman Thompson withdrew his motion.

Selectman Emery's motion to lift the "Over 55" age restriction exchange for the Zoning Board of Appeals reviewing the waivers granted in 2005 or 2010 to ensure that any of those waivers that were specific to being a community of over 55 are addressed because now there would be the potential for children in the neighborhood. Discussion: Selectman Dodd questioned if this was the first time the Board provided input when not required to a pending matter in that is in front of the ZBA as he wanted know if this was past practice. Selectman Thompson supports the motion and agrees that the site needs to be developed and the Board should do what is in the best interest of the Town. Vote: 3-1-1 (Goldblatt, Dodd)

Westborough TV Committee Reappointment – Jeff Spoffard / Catie Foerstch

Ms. Foerstch, President of Westborough TV, came before the Board to request the reappointment of Jeff Spoffard as one of four Directors. Mr. Spoffard was unable to attend and Ms. Foerstch explained that he is finishing a one-year term and that the Westborough TV board is in favor of appointing him for a full three-year term.

Selectman Emery's motion to appoint Jeff Spoffard to Westborough TV Corp. for a full three-year term was seconded by Selectman Dodd. Vote: 5-0

Proclamation – Rod Jane' Day / Town Manager

Selectman Johnson asked for the Board's support for a proclamation for Rod Jane Day on November 2, 2011 as on that day he will be recognized and will receive the "Good Scout

Award". Selectman Johnson asked that the proclamation be amended to include that Mr. Jane is receiving the "2011 Good Scout Award" in Westborough.

Selectman Thompson's motion to approve the proclamation for Rod Jane Day on November 2, 2011 was seconded by Selectman Dodd. Vote: 5-0

Selectman Goldblatt will attend the event and present the proclamation.

Town Counsel Report

Attorney Franks reported that the Board of Selectmen and the Building Commissioner are being sued for the denial of the Dunkin' Donuts site plan review to install a drive-thru window at the 35 East Main Street site. He will keep the Board informed as the case progresses.

Town Manager Report

Mr. Malloy informed the Board that Mr. Walden had been approached regarding advertising on the water tower which could generate \$200,000 to \$300,000 in revenue for the Water Department. He has spoken with the Foxboro Town Manager as they have one and he concurred with the amount of revenue that is generated. An RFP could be written so that it would be limited to a Westborough based business and with the caveat it could be rejected if the revenue amount was not worthwhile. The consensus of the Board was to pursue the idea.

Mr. Malloy proposed a joint meeting with the Advisory Finance Committee and it was agreed that it would be on the agenda for the Board's next meeting in November. The fiscal policies will not be discussed at this time as the AFC has provided Mr. Malloy with all their comments and he still has yet to incorporate them. The Town Moderator will be invited as well.

One of Mr. Malloy's goals as set by the Board is to review the Town Charter/Bylaws and that the understanding of them is what keeps the relationship between the Board and the Town Manager running smoothly. Another copy of the August 24, 2011 memo outlining the areas that would require clarification or corrections was provided to the Board in their packets. Due to the length of the meeting tonight, Mr. Malloy suggested that these items be discussed over the course of meetings with shorter agendas.

Issues and Correspondence of the Selectmen

The Board agreed with Selectman Thompson's request to have Attorney Franks submit a Freedom of Information Act request to the State Representatives and Senate delegation asking for copies of any and all email and written materials sent to the re-districting committee.

Selectman Emery asked the Town Manager if there could be a standardized way to answer the phones in each department so that it is more user-friendly and the caller knows who they are talking to. Mr. Malloy will address the issue and will also check the Bylaws.

Selectman Dodd had previously proposed in 2008 a customer service initiative and asked if the Board would consider a discussion at a future meeting. He will send the information to Ms. Covino to include in the Board's packets.

Selectman Goldblatt expressed her concerns regarding half days of school and that there has been issues and some vandalism at the gazebo in Bay State Commons. She suggested, with the Board's permission, that the Police Chief and the Superintendent discuss the possibility of an extra police detail. The School Liaison Officer does police the area on those days but has to respond to other calls as well. Chief Gordon agreed to speak with the Superintendent. Selectman Goldblatt asked that the men and women that are far from home be kept in our thoughts and prayers.

Selectman Emery thanked Tim Novak for producing the meeting.

Adjourn at Open Session

Selectman Dodd's motion to adjourn at 7:55 p.m. was seconded by Selectman Emery. Vote: 5-0

Submitted by Paula M. Covino

Chairman Goldblatt

Vice Chairman Dodd

Selectman Emery

Selectman Thompson

Selectman Johnson