

**Westborough Board of Selectmen
Meeting Minutes
September 27, 2016**

6:30 p.m. – 9:40 p.m.

Present: Chairman Johnson, Vice Chairman Drewry, Selectmen Barrette, Emery and Tretter

Also Present: Jim Malloy, Town Manager, Kristi Williams, Assistant Town Manager/HR Director

Open Forum

Jessica Padula thanked the Board, Town officials and the community for supporting the 4th Annual Buddy Walk Harvest Walk held at Lake Chauncy on September 18, 2016. The event was extremely successful and over \$110,000 has been raised to date for the Massachusetts Down Syndrome Congress. Ms. Padula noted that there were many high school student volunteers as well and spoke to the importance of the inclusion of young people in this cause.

Request to Approve the Minutes of September 10, 2016

Selectman Emery's motion to approve the minutes of September 10, 2016 was seconded by Selectman Tretter. Vote: 5-0

Request to Approve the Minutes of September 13, 2016

Selectman Barrette's motion to approve the minutes of September 13, 2016 was seconded by Selectman Tretter. Vote: 5-0

Public Hearing for the Transfer of Liquor License to CY Westborough LLC d/b/a Courtyard Boston Westborough, 3 Technology Drive / Navin Patel

Selectman Barrette's motion to open the public hearing for the transfer of License to CY Westborough LLC d/b/a Courtyard Boston Westborough was seconded by Selectman Drewry. Vote: 5-0

Lisa Bublitz, General Manager, came before the Board.

Selectman Emery's motion to approve the transfer of license application to CY Westborough LLC, d/b/a Courtyard Boston Westborough at 3 Technology Drive, naming Lisa Bublitz as the Manager of record, as per their application was seconded by Selectman Tretter. Discussion: Selectman Johnson noted that the Town is very serious about the enforcement of prohibiting the sale of liquor to minors. Vote: 5-0

Selectman Barrette's motion to close the public hearing was seconded by Selectman Emery. Vote: 5-0

Request to Approve the Common Victualer Permit for CY Westborough LLC d/b/a Courtyard Boston Westborough, 3 Technology Drive / Navin Patel

Selectman Emery's motion to approve the Common Victualer application for CY Westborough LLC, d/b/a Courtyard Boston Westborough at 3 Technology Drive, as per their application was seconded by Selectman Tretter. Vote: 5-0

Request to Approve the Innkeeper/Lodging House Permit for CY Westborough LLC d/b/a Courtyard Boston Westborough, 3 Technology Drive / Navin Patel

Selectman Emery's motion to approve the Innkeeper application for CY Westborough LLC, d/b/a Courtyard Boston Westborough at 3 Technology Drive, as per their application was seconded by Selectman Drewry. Vote: 5-0

Request to Appoint James Bruce as a Reserve Intermittent Police Officer / Chief Gordon

Chief Gordon came before the Board and reviewed Mr. Bruce's background.

Selectman Emery's motion to approve the appointment of James Bruce as a Reserve Intermittent Police Officer was seconded by Selectman Drewry. Vote: 5-0

Request to Close the Exit from Kimball Road onto Mill Road and for the DPW to Post a "Do Not Exit" Sign / Chief Gordon

Chief Gordon explained that his intent this evening is to provide the Board with information regarding this issue and any changes to the traffic regulations will have to be put forward in a public hearing. He noted that there have been several complaints over the last couple of years from Kimball Road residents about speeding and bus stop safety. He viewed the area, coming out of Kimball onto Mill Road, and the line of sight is poor and dangerous. There are issues with drivers not stopping for the bus and recommended a change to the bus stop. The residents are requesting that the Town purchase a speed radar sign for Fisher Street at Mill Road. Chief Gordon explained how the signs operate, and as there is no light pole to attach it to it would have to be free standing. The cost is \$5,000 each. He has posted officers in that area as well as placing the Town's radar sign on Fisher Street. Chief Gordon worked with the Town Engineer, who agreed that there is no way to make a safe exit onto Mill Road and the recommendation is to post a "Do Not Exit" sign on Kimball Road where it meets Mill Road and a "No Exit" sign on Kimball Road at Fisher Street. The road will remain two-way to residents. Chief Gordon noted that he has instructed the bus driver to stop in the middle of the road to block traffic from passing the bus.

Bill Mills-Curran, 7 Kimball Road, noted that there are three separate problems and their remedies can be dealt with individually. The bus stop accident was not related to this issue and was addressed. Closing Kimball Road traffic to Mill Road will create other issues, mainly the difficulty that commercial vehicles would have turning around to exit. Mr. Mills-Curran explained that the exit from Kimball onto Mill does not need to be addressed as the residents can deal with it by not using it as an exit.

Andrew Sklar, 8 Kimball Road, thanked Chief Gordon for addressing the bus stop issue, as it is safer now and the line of sight has improved. He noted that speeding is the issue that needs to be addressed on both ends of Kimball. Mr. Sklar expressed his appreciation for the extra attention by Police Officers and the citations issued, but noted that they cannot be there all the time and the portable radar sign does not address the issue either.

The consensus of the Board was to move forward with the public hearing.

Articles #1 and #2 – Spurr House / Municipal Building Committee

Bob Brown, Municipal Building Committee (MBC) Chair, announced that John Arnold, who is also a member of the MBC, is leaving Town. He has lived in Town all his life, served the Town in many capacities and has been a tremendous resource for the MBC as well as the many other committees he has served on over the years. Mr. Brown noted that he will be greatly missed and asked that his service be honored.

Dexter Blois came before the Board and noted that the MBC voted unanimously to request an Article for the Spurr House. He reviewed the Article that was voted at the 2015 Fall Town Meeting, and the property lines and zoning as shown on the Assessor's map, which was used originally years ago for the design/development of the Forbes Municipal Building (FMB) renovations. Recently the architect needed to identify property bounds for the construction phase of the project and a survey was conducted of the FMB property, the Spurr House, and the Library. The results were that the Spurr House property lines extend behind the property through the FMB parking to the cemetery. He researched the deeds and explained the history of the property and what Mrs. Forbes purchased and gave to the Town. Mr. Blois also noted that the Explorer Post is now land locked. The MBC saw the need to address this immediately as parking will be lost which the Town cannot afford to have happen.

Selectman Tretter confirmed that the RFP contained the original property lines, and as the issue is parking he asked if the parcel could be subdivided. According to Mr. Blois and Mr. Malloy's experiences as well Town Counsel's opinion, it would create major zoning issues. Selectman Tretter asked if an easement could be created as part of the RFP and Mr. Malloy noted that it could however it would be for parking and the owner would pay taxes on property he cannot use. The utilities were discussed as well as the new diesel generator needed for the FMB which is too large to be located inside and must be placed ten feet away from the building. If it is not put in the back it will have to be placed out front with the memorials. Selectman Drewry asked if someone did purchase the property could they build on the portion behind the FMB and Mr. Malloy stated that they could. He also pointed out the possibility that the owner could charge the Town to continue to use it for parking. Selectman Barrette noted that he and Mr. Blois met with residents and members of the former Spurr House Committee to discuss easements and if it is voted to issue another RFP then the Town would include the option to take back the property by eminent domain as a requirement. Town Counsel confirmed that this is legal, but would be an involved process. Selectman Barrette addressed the comments from the Historical Commission, which he noted are unfortunate as they are unfair to the Town Manager, had no basis and that they should have checked the facts.

Selectman Emery noted that she grew up on 9 Parkman Street and none of the residents, past or present, thought that there would be a Town parking lot expanded/created at the end of the street. She added: the Town should do as much as it can to sell the property as the vote at the 2015 Fall Town Meeting was 2/3 in favor of putting it up for sale; asked to understand why it is difficult to subdivide; a Town Meeting vote does not bind subsequent meetings from changing direction and is concerned about setting a precedent; with the upcoming 300th anniversary there should be some consideration for the historic homes in Town; and putting a parking lot on this property could be detrimental to this and other downtown neighborhood, therefore other options should be looked at to deal with the parking issues.

Mr. Malloy, who spoke with Town Counsel on this issue, explained that the property is about 22,650 square feet and a legal lot size in residential zoning is 50,000 square feet. This lot is non-conforming and it cannot be split as that would increase the non-conformity according to the State Zoning Act. The Town would not be able to obtain a variance as it would be increasing the non-conformity by its own actions and creating its own hardship, which according to Town Counsel is illegal. Mr. Malloy addressed the parking requirements according to the building size, which would be required of any property owner, and the FMB requirement is 158, it has 66 and the Town Hall requirement is 61 and has 26, which is less than the number of employees. There is parking on South Street but that is full most of the time. Mr. Malloy noted that he understands the request to

not tear down the house and but pointed out that if the parking behind the FMB is lost what would be the alternative to provide parking, which needs to be in place before the house is sold. He reviewed options which included purchasing property at a high cost or moving the cemetery and asked the Board and public for reasonable alternatives. Selectman Emery suggested that there is time to look at other alternatives. Mr. Blois spoke to the lack of parking for the library as well and that parking is a problem in downtown.

Selectman Johnson questioned the meaning of rescinding Article 1 from the October 19, 2015 Town Meeting and Mr. Malloy explained that it would rescind the direction of that Article. Selectman Johnson noted the strong vote in favor last year and asked if there is a way to fix the parcel as it was thought to be, put out a new RFP for 18 month to determine if that accomplishes the wishes of Town Meeting or would it be better to come back to Town Meeting and go through the same process. Mr. Malloy suggested issuing an RFP for 18 months including the easement and that the purchaser has to agree that it will be taken by friendly eminent domain. This will affect the sale price somewhat. Regarding the rescinding of the vote, he noted that there are now a different set of facts from what was voted which is a good reason to bring it back to the voters.

Selectman Emery asked that if a parking lot should be built a buffer be provided for the abutting property. Selectman Barrette noted that the MBC has discussed this and will be respectful of the neighbors by installing fencing and greenery.

Jennifer Doherty, Historical Commission member, informed the Board that many Massachusetts communities have a flexible dimension zoning bylaw which allows for the creation of a non-conforming lot if it will save a historical structure or landscaping feature. She asked the Board to look into a way to solve the issue.

Steve Doret noted that under municipal zoning, setbacks and area requirements are determined by Town Meeting votes and when Town Meeting created this parcel as residential it was also created as non-conforming. He suggested that it be rezoned municipal, divided so that there will be two separate municipal lots and find out what needs to be done when it is sold, that it is either left as municipal or rezoned as something else. Selectman Barrette explained that after the 2015 vote the Town had to wait until March Annual Town Meeting to change the zoning from M-1 to residential, which is what took time; it was not the Town Manager or the Selectmen that held it up. Mr. Malloy reviewed the process to rezone the parcel back to municipal, subdivide the land, and rezone the front residential. This could take 1-2 years and cannot be done in one Town Meeting. Selectman Barrette commented that this could put the FMB renovations on hold. Mr. Malloy suggested proceeding with the reissue of the RFP as he stated earlier as it would be quicker. He noted that if the Board moves forward with this option he would need discussions on parking alternatives. Also discussed was the Zoning Bylaw that allows non-conforming lot dimensions to be changed by eminent domain; the option to add eminent domain language to Article 1, and the process to do this; bringing Article 1 to Town Meeting explaining the issues and the new information; and removing Article 2. Mr. Malloy suggested that both Articles be removed from the Warrant and that he will issue a new RFP in the next two weeks that will be due one month before Annual Town Meeting; it will be contingent on eminent domain with the advice of Town Counsel regarding the language and Town Meeting's vote. Selectman Barrette asked that options for parking solutions be sent to the Town Manager.

Selectman Emery's motion to remove Article 1 and Article 2 from the Warrant was seconded by Selectman Tretter. Discussion: Rod Shaffert, 8 Parkman Street, commented on the efforts

regarding this issue and recommended hiring a consultant to provide recommendations to solve the parking issue for the Town Buildings and to alleviate the parking on Parkman Street. Bob Pano, 9 Parkman Street, was pleased with discussion tonight and provided comments as to why he feels the Spurr House should not be taken down. Mr. Malloy asked Mr. Pano to meet with him to discuss his fence which is on the property that would be sold. Bernice Rabidou, 10 Parkman Street, questioned some of the language in the RFP and asked to be informed when the Board discusses the Spurr House. She was informed that all meetings and agendas are posted on the Town website. Phyllis Jaffee, 4 Deerslayer Lane, spoke to the advertisement of the RFP and suggested options to promote the sale. Vote: 4-1 (Barrette)

Article #16 – Building Department Records Scanning / Building Commissioner

At the request of Selectman Emery, the Building Department and Planning Board were asked to address her question regarding the feasibility of culling out duplicate documents between departments that will be scanned.

Mr. Htway reviewed Ricoh's process, how each department currently stores documents, plans and files and those documents that they have in common. The reason for the requested amount of \$99,300 in the Article is there will be a storage issue when they move out of the FMB for renovations. It will cost \$215, 801 to do both the Building and Planning Departments. Chief Purcell and the Town Engineer had no issue waiting until a later date. Mr. Robbins noted that culling the documents is a good idea to cull, but there may not be time to do that before the move. He explained that his Administrative Assistant is leaving in December and when they relocate to the DPW their files will most likely be stored in another building from their office. Mr. Robbins requested that the Planning Dept. be included in the Article.

Selectman Emery's motion to change the amount of the request to \$215,801 to get both departments done to accommodate their needs was seconded by Selectman Tretter. Discussion: Selectman Tretter noted that this is an issue of efficiency, the documents are critical to the day to day operations, and it makes sense. Selectman Johnson's asked if the possibility of scanning duplicates and triplicates is accurate and Mr. Malloy noted that it is partly that and the capacity of the departments to get it done. He added that it has been 5 years since the electronic permitting was approved and he is not sure that it being fully utilized and is also concerned whether the staff will have the capacity to use the new system or will they return to using hard copies. Selectman Emery pointed out that the reason she is supportive of the new amount is that Mr. Htway and Mr. Robbins noted that the departments' response time to the public will be compromised. Selectman Drewry supports moving forward with the project now.

Vote: 3 – 2 (Barrette, Johnson)

Article #19 – East Main Street Property Acquisition / School Committee

Mr. Doret noted the importance of the need for open space in downtown area given the lack of parking and that this purchase would be a wise investment. He reviewed the current needs of the school system and changes that will be made, especially at Hastings which will include occupying part of the fields and parking lot. Mr. Doret and Ms. Bock addressed the opportunities that this parcel can offer. Ms. Bock noted that as the parcel is close to the street it will also serve some of the civic needs of the community as Tufts Machine is selling their property. The School Dept. will collaborate with those organizations.

Fall Town Meeting Warrant – Vote to Support Articles and Close the Warrant / Town Manager

Selectman Johnson reviewed the Articles and #5, #8 and #27 were questioned.

Selectman Barrette's motion to support all Articles except Articles 5, 8 and the new 27 was seconded by Selectman Emery. Vote: 5-0

Article 8 – 300th Anniversary Committee: Selectman Drewry noted that the original plan to lease space at Bay State Common has fallen through and they are working to lease space on Lyman Street. Selectman Drewry requested an increase to the Article amount to ensure that there is enough funding for their events and any leftover funds will be returned to the Town.

Selectman Drewry's motion to add \$20,000 to the Article amount of \$5,000 for a new total of \$25,000 was seconded by Selectman Emery. Discussion: Selectman Tretter asked if the Committee has indicated the need for additional funding and Selectman Drewry confirmed that they have. Selectman Johnson noted that the Board should work with the Committee in case the request is questioned at Town Meeting and Selectman Barrette agreed to contact them. Vote: 5-0

Article 27 – Radar Speed Signs (by Citizen's Petition): Proponent and resident, Christine Bradley and Samera Spear, Kimball Road residents came before the Board. Ms. Bradley reviewed the speeding issues in the area and presented information on the signs. She explained that they are solar powered and with options for setting the sign information. Regarding the placement, the DPW will be asked to look at the options and make their best recommendation. The Board discussed concerns that other residents who have similar issues will be requesting mitigation solutions as well. Chief Gordon noted that he is in agreement with this concern.

Selectman Emery's motion to support Article 27 was seconded by Selectman Drewry. Discussion: Selectman Drewry asked if they are portable and they are not. Chief Gordon noted they have to be attached to a pole as the space is too narrow to place them on the ground. Selectman Tretter agreed with the Chief's concerns as there are issues elsewhere with requests for more crosswalk signs, and suggested a public hearing on the issues. Selectman Johnson has the same concerns, but noted this could be a test case in a troublesome spot and supports the request. Selectman Emery has the same concerns, but is in favor as a those street are a cut through for commuters. She suggested combine this as a trial with a study. Selectman Barrette noted that the recommendation should come from the DPW and Police Chief as they are the departments that address these issues, he respects the citizen's petition but feels that the issues should not be driven by it, and he does not support the request. Ms. Bradley noted that she has been voicing her concerns since 2014 and Selectman Barrette noted that the response was not timely sand asked to hear from the Police Chief and Town Engineer. Vote: 3-2 (Barrette, Tretter)

Article 5 – Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation Zoning Regulations: Mr. Malloy asked Mr. Robbins to address Town Counsel's questions regarding this Article. Mr. Robbins noted that he is in disagreement with Town Counsel and stated the Counsel is crafting the bylaw assuming that the referendum passes. He noted that the current bylaw does not allow home growing unless allowed by the State; it is restricted to the Adult Entertainment District where medical marijuana is allowed. Mr. Robbins added that Counsel's comments are intended to protect the Town if the referendum passes so the additional language allowing home growing and off-site delivery from medical marijuana dispensing facilities is in the bylaw. If the bylaw includes this language and the referendum fails this language will remain in the

bylaw allowing home growing and deliveries. The proposed amendments restrict sales, growing and distribution. Mr. Robbins reviewed the language changes and their implications and is comfortable with the way the Article is presented and noted that changes can be made on Town Meeting floor.

Selectman Tretter's motion to support Article 5 was seconded by Selectman Drewry. Vote: 5-0

Selectman Barrette's motion to close the Warrant for the 10/17/16 Town Meeting was seconded by Selectman Tretter. Vote: 5-0

Deputy Fire Chief / Chief Purcell

Chief Purcell came before the Board. His presentation to the Board on September 13, 2016 included an organizational chart outlining what the department would look like in the future. Chief Purcell reviewed his current staffing and explained the difficulty in being able to address all his required responsibilities. He is requesting a Monday through Friday position outside of the bargaining unit and noted that the organizational structure can be changed with no impact to his budget. Chief Purcell worked with the Town Manager and the Assistant Town Manager on the job description and the Town Manager has approved the organizational change. This is consistent with surrounding towns and will provide the Town with better service.

Selectman Tretter's motion to approve the Deputy Fire Chief position description as attached was seconded by Selectman Barrette. Discussion: The Board provided comments of support. Selectman Drewry asked Chief Purcell to explain the new dispatch center to which he gave a brief overview. Vote: 5-0

Request to Approve the Use of Gift Funds for the Downtown Beautification Project for Veterans / Town Manager

Mr. Malloy noted that this vote is not needed according to the Town Accountant as there is an account already set up for the downtown decorations.

Request to Approve the Selectmen's FY17 Goals / Selectman Johnson

Selectman Tretter's motion to approve the Board of Selectmen FY17 goals as presented was seconded by Selectman Drewry. Discussion: Selectman Emery questioned a statement by the facilitator, Mr. Nutting that "each selectman is officially a selectman when sitting in a duly called BOS meeting" and that she assumes they are Selectmen all the time. Mr. Malloy will speak with Town Counsel for clarification. Selectman Johnson noted the Board does not have any decision making authority unless they are in a meeting. Selectman Tretter asked if the exploration of becoming a Green Community should include the Community Preservation Act (CPA) and Mr. Malloy will add that. Selectman Barrette noted that he remembered the result of the discussion regarding #7 (Council on Aging) was 12 months not 24 and the Board agreed. Selectman Emery accepted the amendments to the motion. Vote: 5-0 in favor of amended goals.

Town Manager Report

Alcohol on Town Property: Mr. Malloy has been asked a few times about serving alcohol during special events on Town property and he reviewed M.G.L. Article 20 and the Town Charter, which places all Town property except schools, libraries and conservation land under the jurisdiction of the Town Manager. He reviewed some of the Town's special events that would be interested and that they could be considered on a one by one basis. Town Counsel was consulted and agreed that the Town Manager could approve the request but the proponent would have to come before the

Board for a one-day liquor license. Selectman Johnson suggested the Town Manager communicate with the Police Chief and that it would not be appropriate at family events. The Library Trustees would have jurisdiction for the library. Selectman Drewry is not in favor serving alcohol in Town buildings and is opposed due to the liability issues.

Firefighter's Boot Drive: Mr. Malloy has approved the Firefighter's Boot Drive for Muscular Dystrophy on October 15, 2016 from 8:00 AM to 1:00 PM at the Rotary.

Salary/Wage Survey: Mr. Malloy noted that he will conduct a salary and benefit survey of similar towns and reviewed the process to determine which communities will be considered. It will be helpful to have for the Clerical Union mediation process. Selectman Emery asked that the employees' duties match those in the other towns and Mr. Malloy will consider that as well.

Issues and Correspondence of the Selectmen

Selectman Emery requested a proclamation for John Arnold. She asked what needs to do be done to resume the Transportation Incentive Program application and Mr. Malloy noted that the DPW will need to work with the CMRPC and it takes 7-10 years for a project to begin. Selectman Tretter attended the first two Diversity & Inclusion Committee meetings, which were very positive, and burial procedures from different groups in Town were discussed. He noted that the DPW is cleaning up the rest of brush from the storm and the trail work will be moving forward. Selectman Johnson noted his appreciation for residents' participation and patience at the meeting tonight. He attended his first 300th Anniversary meeting addressed the need for volunteers as more help is needed to make the events successful.

Executive Session

Selectman Drewry's moved to enter into Executive Session at 9:40 p.m. under M.G.L. 30A, §21 (3) to discuss strategy with respect to collective bargaining. Chairman Johnson declared that an Open Session would be detrimental to the Town's negotiating position and the Open Session will not reconvene after Executive Session.

A Roll Call Vote was taken: Selectman Tretter – yes; Selectman Emery – yes; Selectman Johnson – yes; Selectmen Drewry – yes; Selectman Barrette – yes.

Submitted by Paula M. Covino

Chairman Johnson

Vice Chairman Drewry

Selectman Barrette

Selectman Emery

Selectman Tretter