

Planning Board Meeting
Tuesday, December 16, 2008
McCulloch Building, Conference Room

Present: Paul Hurley/Chairman, Sandra Williams, Mary Akoury, Dave Chandler and Walter Flynn

Also Present: Mayor Sue Kay
Scott Bois/Municipal Finance
Jim Clarke/Director of Planning and Community Development
Rod Fuqua, Principal Planner
Bob Luongo, Economic Development Planner

Chairman Hurley called the December 16th, 2008 meeting of the Planning Board to order at 7:30 PM.

1. Clapp Memorial Building
• **Discussion**

The first item on the agenda was discussion of the Clapp Memorial Building.

Mayor Kay was present to address the status of the project and 40R zoning.

Mayor Kay began her presentation by noting on March 18th, 2008 she received a memo from the Planning Board regarding the Clapp Memorial Public Hearing. The memo referred to a public hearing on the matter, which resulted in a failed vote by the Board regarding the future of the Clapp Memorial. In reading the memo she said she was somewhat confused about the Planning Board's final recommendation; were they voting for the Town to move forward with '40R' or not. She realized some of the members had reservations about the proposed project. At this point she noted that the developer has chosen to reduce the originally proposed 48 units to 38 units - out of which 8-10 would be designated 'affordable' units. In reviewing the proposal, she felt strongly that the project was worth taking another look at. Further, she was in favor of the Town applying for '40R Zoning/Smart Growth Zoning Overlay District with the State.

At this point Mayor Kay reviewed the process/time sequence involved in achieving designation, which included the following steps/timetable:

- Submittal of 40R Application to DHCD (Ma. Dept. of Housing and Community Development), determination of eligibility - 30-day review
- Determination that the Application satisfies the approval requirements - 60 day review - Local approval/vote (Town Council and Planning Board), w/vote followed by Planning Board report - 21 days
- Final DHCD approval
- Project application within the Smart Growth Overlay District/Zoning Board of Appeals hearing - requires 2 weeks notice
- Rendering a decision

In Summary, Mayor Kay acknowledged that it would be a very lengthy process and at this point she was recommending that they move forward with the process. She then recapped the developer's commitment to reduce the number of condo units from 46 to 38, with 8 of those being set aside as 'affordable' units. Additionally, the plan called for 7,000-sq. ft. of Office Space, which would encompass the basement and first floor - with the condos planned for the 2nd-4th floors. She said she would like to see the Clapp Memorial Building developed in the manner it deserved, and she felt that in pursuing the 40R zoning it would give the Town strict control over its

development. She added that she would insist on a specific type of design. Further, she said going with '40R' would give them the opportunity to qualify for state funding - with a portion of the money being utilized for upgrading Central Square.

Mayor Kay went on to say that she has an email from the Mass. Dept. of Revenue which states there is \$15 million available in Small Growth funds. She then cited other communities that have taken a similar route; such as, the Town of Norwood. Additionally she noted there is money that is supposed to be available for school age children. She referred to the 38 units, commenting that she didn't see the units housing that many school-aged children. In closing she reiterated that she was before them this evening in support of the change of zoning to 40R zoning, for the Smart Growth Overlay District - clarifying she was addressing the zoning only and that she would speak to the proposal itself at a later time in the process. This evening she was seeking the Board's comments and took a moment to thank the Board for giving her this opportunity to meet with them and voice her viewpoint this evening.

Chairman Hurley wanted to clarify with Mr. Fuqua that the past public hearing that was held was essentially for '40R' and Mr. Fuqua replied 'yes'.

Chairman Hurley then asked 'if we reconsider do we need another public hearing' and Mr. Fuqua replied 'no'; adding it would be viewed as reconsideration of a vote.

When speaking about making a motion for reconsideration, Mr. Flynn wanted to point out that he was not present when the '40R' public hearing was held, nor was Mr. Chandler - and when the public hearing took place the other members on this Board voted opposed. Based on that he felt they would need a new public hearing.

Chairman Hurley stated that it was his understanding that one of the members who voted opposed would need to make the motion for reconsideration (specifically one of the members that voted in the majority).

For further edification, Mr. Chandler read from the minutes of the meeting re. the details of the vote that was taken that evening.

Mr. Fuqua explained the protocol regarding the vote, stating that if there is a vote for reconsideration - one of those who voted opposed to the motion would need to move for reconsideration of the failed vote - but he wanted to point out that the 'motion' was not under review, but that the focus should be on a new motion that would be in favor of going ahead with '40R'.

At this point Bob Luongo/Planning distributed a memo that included the verbiage of the motion made that evening.

Ms. Williams said she wanted see it documented that the developer be required to put in writing the specific restrictions that were addressed by the Planning Board and that were entered on the plan.

Mr. Luongo replied that the time for restrictions would come when the Planning Board considers the zoning change. He said that once the overlay district is created, it would come to the Planning Board for debate and discussion. Further if the 40R zoning passes, it would then go before the ZBA for them to grant a permit, at which time they could add the restriction(s). He explained that doing it now wouldn't work, because they didn't have the Ordinance as yet. He further explained that the Planning Dept. would be the ones responsible for crafting the zoning ordinance and conditions that could be added a second time, further on in the process. He commented that now they would be viewed as 'wishes'.

Ms. Williams replied that the restrictions she was referring to were actually included as part of the Planning Board's original motion - and voted by them. She felt strongly that the developer be required to acknowledge these restrictions in writing so that they would be assured that they would be adhered to.

Mayor Kay said she viewed them more as legal restrictions. She noted that now with the downturn of the economy which is essentially in turmoil; i. e., real estate, loan developments, etc. are being scrapped. She acknowledged to Ms. Williams that she had similar concerns. She then asked 'what if we go through the steps, the project gets approved and the developer has difficulty in obtaining funding for the remaining of the project - or what if the project is sold off, what happens to their recommendations/restrictions - do they pass on to the new developer?' She felt it important that they look at this long range.

Mr. Fuqua wanted to point out that this was a multi-tiered process, beginning with the Mayor submitting the request to DHCD, but he quickly emphasized that it just would not work if the Planning Board is opposed. First they would need to craft the zoning ordinance, then hopefully the process would move forward with it ending up with the Town Council taking the final vote. He wanted to point out that it would take a two-thirds vote of the Town Council or at least a vote in favor by 8 out of the 11 Councilors. He said that once the zoning is in place, the proposal would then come in as an application. When it came before the Zoning Board of Appeals, there could be further conditions with the opportunity at that time to strengthen the zoning recommendation. Then at that point it would begin to move forward, with the Town having the reasonable expectation that it would go all the way. He further explained that in the end it falls back to Zoning and to the Developer - or if there are changes, at least the zoning would be in place. Additionally, they have input from the ZBA, which locks in development. Lastly he noted that this couldn't be changed unless it comes back before Zoning for their approval.

Mayor Kay estimated that the time involved from beginning to end is about 4-5 months and by the end of that time period they should have an idea of the direction of the economy; i.e., Air Base holding up until they can get bonding. At this point she was waiting for the zoning to be voted before moving forward, adding, "it's the district I'm focusing on now".

Ms. Akoury asked if the Mayor fully supported the program and she replied 'yes'.

Ms. Akoury then asked 'why do you want to go ahead?'

Mayor Kay told her:

- she was excited about the concept
- having control of the historical district
- having control of the developer's proposal.

Mayor Kay further commented that this overlay district might not go through, but she felt that overall 'smart growth districts' would be successful; i. e., businesses on the bottom floors and housing units above. She added that she felt that this was Weymouth's future that Central Square fits nicely into this plan and she would hate to lose this opportunity.

Mr. Fuqua wanted to point out that one of the unique factors with '40R' gives the Town much more control of the design. He also wanted to note that zoning governs setbacks/uses, but 40R gives the Town another layer of control over design.

Mr. Luongo spoke next explaining that under '40R' the Town dictates, but under '40B' the developer dictates. He emphasized that it clearly is the Town who dictates the design and not the developer. He went on to say that the

project would include a minimum of 20% of the units being designated 'affordable' and again the Town dictates that. He told members that '40R' was created as a backlash in response to '40B' and with this the developer loses a lot of control.

Mayor Kay stated that she was encouraged by the developer who was proposing this project, noting that in the past he has held multiple neighborhood meetings. She felt that he approached the process in the right way - and that he would ensure that it would be well built.

Mr. Chandler asked if they were just talking about the Clapp Memorial Plan or Central Square and Mr. Luongo explained that the boundary is the lot of land that houses Clapp Memorial (a single lot zoning district).

Mr. Chandler asked if once it was approved the time period would be 90 days and Mr. Luongo responded 'no', explaining that with 40R, from the date the application is submitted to DHCD you have 90 days to decide. At that point it comes back before the Planning Board for zoning amendments.

Mr. Chandler then asked 'if the Planning Board votes in favor of 40R, then they include the restrictions outlining what they want regarding zoning - does it then go before the Town Council for their approval?' and Mr. Luongo responded "that's right".

Then Mr. Chandler asked " could they then change it?" and again Mr. Luongo told him that was correct.

Mr. Chandler next cited a different scenarios where the Town does nothing, then the developer moves ahead and purchases the property under 40B - or the Town/Planning Board chooses to take the initiative and pursue 40R zoning which would give the Town control.

Mr. Luongo acknowledged this as a correct scenario - then quickly added another option whereby another non-profit could come in.

Mayor Kay wanted to point out that going forward with 40R also guarantees the Town new tax revenue.

In addressing the Mayor, Ms. Williams stated 'you could have chosen to bypass the Planning Board in this process'.

Mayor Kay replied that she was correct, but quickly added that was not what she wanted to do.

Mr. Flynn wanted to note that he was not present for the public hearing. He felt that if the Planning Board had just left out the negative reference to 40R and 40S in their report that would have been the route to take.

Mayor Kay referred to Page 7 of the 9-page document, where it stated that the Planning Board recommended that the Mayor move forward, but she pointed out their vote confused her. She explained that she was before them tonight primarily for clarification.

Mr. Flynn took a moment to note that he misspoke previously regarding the vote for reconsideration, clarifying that according to Robert's Rules the members of the prevailing vote are the only ones who can request reconsideration, but the motion for reconsideration needed to be made in a certain time period (24 hours), which has since expired.

Mr. Chandler commented that the Board could now choose to vote 40R up or down.

Mayor Kay said she understood the Board's hesitancy, but pointed out that she as Mayor has the right to make the motion if the Board is in agreement - adding it is appropriate and legal.

Chairman Hurley stated that he just wanted to make sure that the action they take is proper and then took a moment to question who could participate in the vote.

Mayor Kay responded that it is an Ordinance, which has passed.

Mr. Jim Clarke then spoke, explaining that it was a requirement of the 4OR process that a public hearing be held, which is a different process from that of a subdivision. He felt that the Planning Board has met the intent of the law and regulation of the state by holding the public hearing and taking testimony. So at this point they have the right to submit another motion for review.

Chairman Hurley said that he participated in the public hearing and supported the Board on the vote, but at this point he was not sure how to proceed. He said if there is no problem, then he is in favor of moving forward tonight.

Mayor Kay then read from the Planning Board report, which the Board had voted to send to her and then she referred to the conclusions of that report which stated 'she will be allowed to move the application forward', emphasizing that this has been stated in two separate areas.

Mr. Chandler asked 'which vote are we to reconsider?' adding he felt there needed to be a new motion on the floor stating that the Clapp Proposal be designated as 4OR.

Mr. Clarke agreed with Mr. Flynn, adding at this point he did not see the need for a vote for reconsideration. He noted that the Board submitted two separate motions/report. He stated that tonight the Mayor is here to give further credence re. the commentary to the memo - so the new motion would be appropriate.

Mr. Flynn reiterated that a vote for reconsideration needed to be made within 24 hours of the original vote, or it's not legal (referring to Robert's Rules of Order). He then made the following motion.

Mr. Flynn moved to support the submittal, by the Mayor, to the Massachusetts Department of Housing and Community Development of an application for the purpose of adopting the provisions of the Smart Growth Overlay District Program (MGLc4OR and 760CMR 59.00) as well as provisions of MGL c40S (reimbursement for additional costs of educating school age children in smart growth districts) and for the purpose of potentially adopting a smart growth overlay district to be known as the Clapp Memorial Smart Growth Overlay District (CMSMOD) in the Town of Weymouth. The Memorandum dated March 18, 2008 from the Planning Board to the Mayor, subject matter: Recommendations on Clapp Memorial Smart Growth District Preliminary Determination of Eligibility shall be attached to this motion.

Dave Chandler seconded.

Discussion:

The Board asked "is 8 ½% the affordable percent number of affordable housing units in Weymouth?"

Mr. Luongo clarified that it was actually 8.3%. Mr. Luongo was then asked if that takes in all the 'group homes' and he replied 'yes', adding that the Town of Weymouth meets that percentage.

Ms. Akoury wanted to know if they had an estimate re. the number of people it would take to fill the 38 residential units - and also wanted to know how many 3-bedroom units they were talking about.

Developer, William Barry, in the audience addressed Ms. Akoury explaining to her that it was hard to tell how many people would be accommodated within the units, but mathematically he estimated about 80-100 total - but again stated he couldn't say for sure. With regard to the total number of 2 and 3 bedroom units, he said they are re-adjusting the size of the units and he expected they would go more toward the 3-bedroom units. He reminded members that the number has been reduced from their original proposal.

Mayor Kay referred to Southfield, noting that they usually figure there would be 3-children for a 3-bedroom unit.

Mr. Luongo stated that 90% were expected to be 1-bedroom units and 10% would be 3-bedroom units - which would equate to approximately (4) 3-bedroom units.

Mr. Hurley then took Mr. Flynn's vote.
SO VOTED (4/1, Ms. Williams was opposed)

Mayor Kay thanked the Board for allowing her to come before them this evening. She told the Board that she would forward them a copy of any correspondence that she receives from the state.

The meeting concluded and the Mayor left.

2. Capital Budget

- **Update on Capital Budget from Scott Bois, Financial Systems Coordinator**
- **January Schedule of Meetings with Departments**

Mr. Scott Bois/Financial Systems Coordinator of the Municipal Finance Department came before the Board.

Mr. Fuqua explained that in the past Jim Wilson, the Town's CFO came before the Board regarding the availability of monies re. Capital Improvement Funds, but tonight Mr. Bois was filling in for him due to a previous commitment.

Mr. Bois began his presentation by informing the members that he spoke with Jim Wilson and the Mayor regarding the Town's financial aspects and discussed the priorities. He said at this point the Town is anticipating a \$3 million dollar reduction for FY2010, but they expect to hear more about this in May. Further, Mayor Kay's goals are to keep the status/level of employees/services where they currently are; adding she realizes the Town has many capital needs.

Mr. Bois then listed the Mayor's top four priorities:

1. Public Safety (Communications system)
2. Fire Apparatus
3. Police vehicles
4. School Building repairs (roof of one of the schools)

Mr. Bois went on to refer to numbers 1 through 3. He said they are looking to take a creative approach, possibly looking into capital lease. He said there might be a need for small denominational borrowing; i. e., bonds. Other than that there would be limited funds available. He said according to what he has been told, the members of the Capital Budget Committee know how to prioritize, but quickly added that they keep in mind the Mayor's priorities.

After listening to Mr. Bois presentation, Chairman Hurley commented that they now realize their objective and that the status of funds is pretty clear-cut. He then asked about the status of the DPW.

Mr. Bois told him that the DPW purchased two new vehicles with Chapter 90 funding; i. e., a front-end loader and dump truck. He further explained that the Town picked up the cost of plows and the state assisted with funding re. the front-end loader.

Mr. Chandler asked about leasing and Mr. Bois replied that they had a lease/purchase arrangement with the fire engine.

Mr. Chandler said there was more money to do it, with Mr. Bois responding 'at first glance yes, but when bonding the figure changes'.

Mr. Flynn then referred to the top priority - public safety/communications, stating they have questioned the process over the past four years, and have strongly suggested the formation of a new committee to address this need and one that would include a designee from the Mayor's office.

Mr. Fuqua acknowledged this, saying the equipment involved the Police, Fire and I.T. He noted that under the previous Mayor they have crossed boundaries and they discovered that it works.

Mr. Flynn said he would like to see a representative from the DPW included and Mr. Fuqua agreed, adding they are presently looking into that but at this point the critical elements are the Police and Fire.

Chairman Hurley informed those present that there is a similar 'state-wide' committee and they have DPW personnel serving on it. Presently there are mutual aid bills before the Senate. He commented "it's come a long way".

Mr. Bois noted that on the finance side, it has been stressed with the departments that they be creative in coming up with funding/resources - such as pursuing grants. He added that some have done this for capital items. In explaining the process, he said that any capital purchase is to be reported to the Finance Dept. Presently there are several purchases out there, and those involved were questioned if it had come before the Capital Budget Committee. At this point all departments have been put on notice that they must come before this committee - but then they went out on their own and purchased something without the Committee being informed. Again, he reiterated that they were told all capital items must be included on that list.

Mr. Fuqua noted that the DPW has put in for funding for the sea wall continuously, but if grant money became available they are ready to act quickly. He further noted that other departments have gone out and made their purchases because they felt there was an immediate need. They have been told they can't go out and use grant money for whatever they think they need.

Chairman Hurley then asked about the criteria for a capital expenditure - questioning if the figure was \$25,000.

Mr. Bois replied that that figure was correct, but added that there is different criteria - depending on what the item is and the amount being requested.

Mr. Fuqua pointed out those computers and all vehicles are mandated to go on the list.

Ms. Akoury felt strongly that the Town must be responsible for oversight, adding we are on the receiving end and are not always apprised of what is going on.

Mr. Bois said it was viewed as a reporting function, which is required to be submitted on a quarterly basis. He said when he reviewed this with Mr. Fuqua, they acknowledged that there are times they don't have all the backup.

Ms. Akoury said those are the times when they will need to specifically ask for this information.

Mr. Bois wanted to point out that their intent is to meet the Town's requirements. He then explained the bookkeeping process and how one list should mirror the other, but he quickly added this does not always happen.

Mr. Flynn, who served on the Community Preservation Committee, explained that the CPC **recommends** and the Town Council **approves** expenditures from this fund. Re. the Fogg Library, the CPC recommended the expenditure of \$1.32 million for exterior repairs, adding that Mayor Kay will be appointing a committee to address the interior work. Based on this, he wanted to know why this type of work was not on the list.

Mr. Bois said he could not address that at this time.

Mr. Chandler asked about the mitigation money from the Air Base.

Mr. Bois explained that LNR is presently experiencing financial issues themselves, with a possible resolution expected in May. He said if that happens, they are looking at capitalization re. services they provide to them.

Mr. Flynn referred to the \$380,000 plus the \$1.3 million budget. He said if the money from the Fogg Library comes through, then they could possibly reimburse the CPC for the expenditures.

Mr. Chandler said he expected that money to go to Columbian Square.

Mr. Bois asked about the Board's future schedule and Mr. Flynn said at this point meetings are scheduled for January 6th, 13th, 20th, 27th.

Ms. Akoury referred to the projected \$3 million decrease in Local Aid and based on this she asked Mr. Bois if he thought the Mayor's priorities would be covered.

Mr. Bois explained that they are not funded out of the General Fund, and that he anticipated the decrease would cause an impact to the General Fund. He also wanted to point out that the Town took a big hit for FY09.

The meeting with Mr. Bois concluded.

3. Minutes - 7/22/08

Mr. Flynn moved to approve the minutes of the July 22, 2008 meeting.

Ms. Akoury seconded.

UNANIMOUSLY VOTED

4. Other Business

- **D. F. Haviland Lane - possible release of bond**

Mr. Fuqua explained that D F Haviland Lane has been checked and the work has been completed. Further, he informed members that after the rains last week the water flowed downhill and went where it was supposed to. He recommended the bond in the amount of \$27,750 be released.

Mr. Flynn moved to release the Performance Bond in the amount of \$27,750 re. D F Haviland Lane as recommended by Mr. Fuqua.

Ms. Akoury seconded.

UNANIMOUSLY VOTED

Mr. Fuqua then explained that they also need a vote for the easement (for the land over the Church property, across the street from the church where the park is, adding it is a reciprocal arrangement for access).

Mr. Flynn moved to approve Form A for the Easement.

Ms. Akoury seconded.

UNANIMOUSLY VOTED

5. Adjournment

Mr. Flynn moved to adjourn the meeting at 8:55 PM.

Ms. Akoury seconded.

UNANIMOUSLY VOTED

I certify that the above document is a true copy and record of the Planning Board meeting held on December 16, 2008.

Walter H. Flynn, Jr., Chairman
Weymouth Planning Board