

**TOWN COUNCIL MEETING MINUTES OF
21 DECEMBER 2009
COUNCIL CHAMBERS**

Present: Michael Smart, President
Arthur Mathews, Vice President
Robert Conlon
Kenneth DiFazio
Ed Harrington
Thomas J. Lacey
Brian McDonald
Michael Molisse
Patrick O'Connor
Victor Pap, III
Kevin Whitaker

Also Present: Maureen Duffy, Auditor
Franklin Fryer, Town Clerk
George Lane, Town Solicitor
James Wilson, Chief Financial Officer
James Clarke, Director of Planning and Community Development
Walter Flynn, Chair of Community Preservation Committee

Recording Secretary: Diane T. Hachey

President Smart called the Town Council Meeting to order at 7:57 PM. Town Clerk, Franklin Fryer, conducted the roll call with all members present.

Resident and Community Comment

Frozen Wildcats Event on January 1, 2010-Jack Carey of 49 Apple Tree Lane

This is the sixth year of this successful event which has been held on New Year's Day at noon. It is held at Wessagussett Beach near the yacht club with proceeds benefitting the high school weight room. This year the proceeds will benefit the entire Weymouth High School Athletic Program. It was noted that Councilor Lacey has been a participant each year and Mr. Carey is requesting that people either consider participating or sponsoring someone.

Report of Committee

Budget/Management Committee-Chairman Kenneth DiFazio

09 145- Fiscal Year 2010 Tax Classification

Councilor DiFazio noted that measure number 09 128 was approved by the Town Council on November 30, which approved a tax shift of 1.55. This new measure was referred on December 14 as a late agenda item. The Budget/Management Committee met tonight and deliberated the following measure:

Based upon a Department of Revenue review, that the Town of Weymouth, approve a classification tax rate shift of 1.50 for commercial, industrial and personal property taxes with no residual exemption for fiscal year 2010.

Chairman DiFazio reported that a motion for favorable action was made, to which no second was received.

An alternate motion was made for unfavorable action to Council, which was approved by the Committee by a 3-2 vote.

Councilor O'Connor motioned for unfavorable action and requests that administration forward a letter to the DOR Commissioner requesting a waiver of the recommendation and to review the initial recommendation of a 1.55 shift. Additionally, that administration contact our state legislators within 48 hours to support this effort and obtain a waiver. There was no second to this motion.

Councilor Whitaker made a substitute motion to approve the 1.50 tax shift, motion seconded by Councilor Lacey.

Mr. Wilson spoke to the fact that this is not a budgetary measure but a shift between residential and commercial properties. The Commissioner reviews our rate to determine if we are within the parameters for a shift—1.55 is not within parameters. It was also noted that there is no appeal process. If this shift is not voted a tax rate cannot be set, and the tax bills cannot be mailed. This would result in cash flow issues to the town in order to maintain services. We could potentially have to go out to bond; with layoffs and effect on bond ratings possible. The Commissioner cannot overturn the decision and there is no appeal process.

Councilor MacDonald concurs that the Commissioner needs to act within the confines of the statute, and doesn't have the flexibility to waive the decision. As Town Councilors we have to uphold the law.

Councilor Lacey noted that no one is happy with this situation. It is clear to him as to how we need to proceed. Should there be a waiver or appeal process he would think differently; the fact is we are at risk of stability in our town unless we vote this shift. He is not in agreement and is supporting the shift as recommended.

Councilor Pap noted that the difference between the 1.55 and 1.50 shift can be equated to \$250,000 and he wants to propose applying this to the town's free cash balance—he will not be supporting the substitute motion.

Council President Smart concurs with Councilor Lacey's points and doesn't want to access free cash. He further warned against borrowing which places the town at risk. Councilor O'Connor stated that when the public hearing was held on the original tax shift that no one from the commercial side spoke against bearing the burden of the shift. He has heard from numerous complaining of bearing the burden under the 1.50 proposed measure. He feels strongly that we should pursue this and fight for the benefit of the residents.

Councilor Mathews noted his appreciation for Councilor O'Connor's passion but stated that our hands are tied, we attempted to relieve the residents of an additional tax burden. He will be voting in favor of the substitute motion.

Councilor Molisse agrees with Councilor O'Connor's motion and is in favor of sending a letter to DOR and our legislators and cites the senior population having a difficult time paying additional taxes.

Councilor Harrington feels that the state is meddling with the town's management and we are being forced against our will; he therefore will not be supporting the new shift.

Councilor DiFazio stated that if one wishes to lower taxes- then the DOR is not the place to do it as they are mandated by statute. He suggests careful scrutiny of the budget. He voiced his support of the substitute motion.

Councilor Whitaker motioned to move the question. The substitute motion was restated Based upon a Department of Revenue review, that the Town of Weymouth, approve a classification tax rate shift of 1.50 for commercial, industrial and personal property taxes with no residual exemption for fiscal year 2010.

Council President Smart clarified that a “Yes” vote signifies one is in favor of the substitute motion, he called for a roll call vote by the Town Clerk-resulting as follows:

Robert Conlon --YES	Kevin Whitaker--YES
Kenneth DiFazio—YES	Arthur Mathews--YES
Ed Harrington—NO	Michael Smart--YES
Thomas J. Lacey—YES	
Brian McDonald--YES	
Michael Molisse--NO	
Patrick O’Connor—NO	
Victor Pap, III—NO	

Substitute motion passes 7-4.

Councilor Whitaker motioned that Councilor O’Connor draft a letter to the state delegation to amend the statute and MGL to include leeway for cities and towns to disagree with the DOR’s decision, motion seconded by Councilor Molisse and voted unanimously.

New Business

Motion to Carry-Over Outstanding Measure/Issues to 2010

-Councilor Arthur Mathews

Councilor Mathews motioned to carry over the following to 2010:

- 08 095-Proposed Ordinance Tenant Identification
- Revitalization of North Weymouth
- 09 038-Proposed Ordinance “Neighborhood Property Preservation
- 09 091-Proposed ;Ordinance Change-Peer Review Process
- 09 111-External Audit Proposals for Fiscal years 2010-2014
- 09 124-Designation of Conservation Commission Member as Special Employee
- 09 140-Parking Fines Ordinance Amendment
- 09 143-CPC-Whitman’s Pond restoration and Preservation
- 09 144-CPC-Weymouth Housing Authority Window Replacement
- Community Rating System Approval Process
- Central/Riley Field Address of Citizen Concerns

Motion seconded by Councilor O'Connor, voted unanimously.

Council President Smart extended to Administration, the Council and the viewing public a happy and safe holiday season.

With no further business to attend to, Councilor Mathews motioned to adjourn at 8:40 PM, motion seconded by Councilor O'Connor and voted unanimously.

Respectfully submitted by: Diane T. Hachey

Approved by:

Council President Smart