

SPECIAL TOWN COUNCIL MEETING MINUTES
Town Hall Council Chambers
April 14, 2014, Monday

Present: Patrick O'Connor, President
Michael Smart, Councilor
Robert Conlon, Councilor
Kenneth DiFazio, Councilor
Jane Hackett, Councilor
Ed Harrington, Councilor
Rebecca Haugh, Councilor
Thomas J. Lacey, Councilor
Arthur Mathews, Councilor
Brian McDonald, Councilor
Michael Molisse, Councilor

Also Present: George Lane, Town Solicitor
Kathy Deree, Town Clerk

Recording Secretary: Mary Barker

President O'Connor called the meeting to order at 7:35 PM. After the Pledge of Allegiance, Town Clerk Kathy Deree called the roll, with all members present.

ANNOUNCEMENTS

Councilor DiFazio announced the next meeting of the East Weymouth Neighborhood Association to be held on April 15, 2014 at the Venetian Restaurant.

Council President O'Connor announced the Thomas Archibald Blood Drive to be held May 2, 2014 1-6PM at the First Church Hall.

RESIDENT AND COMMUNITY COMMENT

SSTTDC Enabling Legislation-Dominic Galluzzo of 86 Candia Road

Mr. Galluzzo expressed concern with the proposed legislation; he provided a handout to the Council with maps depicting the Master Plan, Reuse plan for NAS and noted there are several items that have not been delivered but are still doable if Starwood is held accountable. He noted many of the residents want to know what the advantage is to accepting the new legislation. He noted that trust is an issue and asked what was discussed in private meetings that could not have been discussed publicly before Council.

He had hoped that one Councilor would have questioned what the legislation exposes the town to in future litigation of health issues. He noted that at least one Councilor has asked for a vision and a plan and it has not been provided. He also noted that Starwood cannot withhold host community funds. If tax payments are stopped, tax liens can be executed.

He noted that if the Council approves recommending the legislation, it would negatively impact Abington and Rockland along with Weymouth. He noted there is frustration on the part of the public and recommended the Council do what is right for the towns of Weymouth, Abington and Rockland.

OLD BUSINESS

South Shore Tri-Town Development Corporation's Proposed Legislation and update on South Shore Tri-Town Development Corporation- South Shore Tri-Town Development Corporation-Jeff Wall/ SSTTDC/Board of Directors

Jeff Wall, Weymouth's representative on SSTTDC Board of Directors, was invited to the table. He was accompanied by Jim Wilson for technical support and presented a power point that was also forwarded to the Council office electronically. He made opening remarks before the presentation. He noted that as a part of the process over the last five years, it has been a positive experience and that change is necessary. The legislation was already changed once in 2008 and bonding capacity opened another avenue, but every little piece cannot be legislated. The document is fluid, change is necessary to move it forward with the end result for the betterment of Weymouth, Rockland and Abington.

Councilor Lacey asked for clarification where it stands formally. Mr. Wall responded that it is a draft that the board has voted to send to the three communities with no specific time frame. Councilor Hackett asked if it was being voted at the meeting on Friday as the letter that was sent indicated. Mr. Wall responded that it would be deliberated fully before being brought before the towns. He then presented the proposal by SSTTDC:

Intent

- *Keep the provision in existing legislation that holds Towns do not incur costs for providing services*
- *Insures that bond is paid in a timely manner*
- *Towns receive funding commencing in FY2007*
- *Relieves SSTTDC from Parkway Claw-back until Master Developer begins commercial building*

Legislative Changes

- *First Recommendation amends portions of Section 9*
- *Membership of the Board of Directors*
 - *Intent*
 - *Expands Board to Seven members*
 - *Expands board to include a member of an organized labor board*
 - *Expands Board to include the Secretary of Administration and Finance or designee*
 - *Nor Director or employee of the Corporation may be an elected official of Abington, Rockland and/or Weymouth*

Mr. Wall reviewed the proposed expansion of the board with limited capacity that he likened to a board of selectman. He noted the board reasoned that the state has a huge

impact on the project and should have representation at board level. He also took under advisement comments regarding what percent of representation should be allotted to Weymouth, with the highest physical area. Councilor Smart noted the new make up would reduce Weymouth's voting block from 40 to 25 percent and he will not support this change. Councilor Hackett shared those concerns.

- *Second Recommendation amends portion of Section 12 of existing Legislation*
 - *Adds an administrative position, Executive Secretary effective January 1, 2016*
 - *Eliminate Executive Director and Chief Financial Officer positions effective January 1, 2016*
 - *Removes strong staff for weaker staff*
 - *Reduces administrative costs*
 - *Similar to GL c.41 section 23A*

Councilor DiFazio asked if the sole reason for this change is to reduce administrative costs, and noted that it could compromise securing permanent water and sewer solutions. If it was, he sees it as a knee-jerk reaction to the Starwood proposal and commented that they had opportunity to reduce costs over the last years and didn't.

- *Third Recommendation amends portion of Section 14(b) of existing legislation*
 - *Changes the method of amending zoning bylaws, eliminates the need for Legislative Body approval and substitutes Administrative Approval from the Town in which the zoning change lies and the Board of Directors of the Corporation*
 - *Address complaint that process to amend zoning by-laws is too time consuming*

Mr. Wall reported that this recommendation is to address the complaint that the process is too time-consuming. Councilor Smart asked if this was discussed in deliberations with the board. Councilors Mathews, Smart, McDonald, and Harrington noted they do not support this recommendation. Councilor DiFazio asked if the board has experienced difficulty in obtaining approval from all three towns in zoning. Mr. Wall responded that they have not, but changes in line with the reuse and master plans will require there be some flexibility in place. Councilor DiFazio responded that providing change that alleviates the chance of towns to vote zoning different uses is contrary to the success or the project as a whole.

- *Fourth Recommendation amends portion of Section 19 of existing legislation*
 - *Requires an annual distribution to each of the three communities totaling, in the aggregate,*
 - *10% of annual tax revenues*
 - *Tax Revenues for FY2014 = \$2,733,181.95*
 - *Distributed in accord with the land ratios*
 - *Commencing in FY2017*

Councilor Hackett asked if there have been any discussions with Mass DOR regarding this change. Mr. Wall responded no. Councilor DiFazio noted that two years ago representatives were asked for a clear definition of what was considered excess revenue and was not provided. SSTTDC did not take the request seriously. There needs to be a definition that Mass DOR agrees with and he is glad to see there is an attempt to give revenue to the town, but he suggested that 10% should be the minimum threshold given the history. Councilor Lacey noted continued frustration and noted the board should consider increasing the percentage to all three communities and make it another ratio – not based on land ratio. Councilor McDonald agreed and suggested impact ration. There was a brief discussion of what revenues Weymouth has received this year for services. Mr. Wilson responded that \$600,000 has been budgeted for expenses for public safety and education. The contract for education is under negotiation, so no payment has been made yet. All other payments are up to date.

- *Fifth Recommendation amends portion of Section 25(b) of existing legislation*
 - *SSTTDC may borrow from MWPAT (for water and sewer projects)*
 - *Insures lower borrowing costs unlike Bond 2010A at 7+%*
 - *Requires compliance of the existing project labor agreement with the Quincy and South Shore Building Trades*

Council President O'Connor asked if the legislation passes, who would be responsible to build the solution for water and sewer and would it be able to be accomplished within a 24-month period. Mr. Wall responded that it would be SSTTDC's responsibility. He was not sure of meeting the time. Councilor Lacey noted there is still the opportunity for the developer to pick up the cost. He asked if LNR could have done what Starwood is proposing to do without deviating from the legislation and Mr. Wall responded yes.

Councilor DiFazio asked why SSTTDC recently increased water rates to the residents of Southfield. Mr. Wall responded that a bill was sent to the master developer for \$54,000 for water on the parkway meter. Starwood disputes claims that it is their meter, and that past payment by the master developer for water on a meter it did not own does not constitute ownership. Payment remains outstanding. The bill is in dispute but the rates were increased to the residents to meet the deficiency. Ownership of the parkway, leaks in the system that must be remediated, and determining who is responsible for the repairs and meter, are issues which remain unresolved. Councilor Hackett noted this is a good example of the pros and cons and another category of layers of risk of a consecutive water system. Councilor Mathews asked if Starwood pays the bill, if the residents' rates would be reduced and Mr. Wall responded yes; it was built into the vote that was taken when the rates were increased.

- *Sixth Recommendation amends portion of Section 34 of existing legislation*
 - *Parkway Agreement terms are amended*
 - *Obligation still exists*
 - *The deficiency payment stream, if any, commencing with the building of 450,000 square feet of commercial space and annually thereafter*

- *Consistent with intents of three towns who wanted to insure commercial development*
- *Consistent with terms of Parkway Bond that based all projections on commercial development*

Councilor Mathews noted this is not strong enough and that this is one of the main hindrances to attracting commercial growth. This may still leave hurdles. Councilor Hackett asked if the claw-back is in the enabling legislation or an agreement with the Commonwealth outside of it, to allow the bonding to take place so the parkway could be built. Councilor McDonald agreed with Councilor Mathews that this should be stronger. There was a brief discussion. Councilor Haugh asked if there has been any discussion to lower the commercial tax rate. There hasn't, but there are TIF's in discussion.

- *Seventh Recommendation*
 - *Implementation for Executive Secretary Position delayed*
 - *Changes immediately effective upon enactment*
 - *Except for the deletion of Executive and Financial Officer which is delayed until 1-1-2016*
 - *Meets Towns request for delayed implementation*
 - *Insures smooth transition for all concerned*

Mr. Wall noted that the comments in discussion will be brought back to the board of SSTTDC for further deliberation and he will update the Council as warranted. Councilor Lacey asked if any change to the master or reuse plans or expansion of borrowing powers is under consideration, Mr. Wall responded no. Councilor Hackett noted her concern with the transitional period, not as to personnel but the structure issue. Who is setting policy and is it consistent? 18 months is a long time to go without a long-term solution. Councilor McDonald noted his concern with the timeframe; he noted that this proposal more an act of self-preservation than sweeping change that Starwood proposes. Councilor Conlon noted this is a 20-year project with a lot of information to disseminate.

Parkway Agreement with DOT

- *FY12 Calculation (based upon FY11 construction)*
 - *\$756,978 certified deficiency*
 - *\$290,051 on reserve at ANF*
 - *\$466,927 Paid to Commonwealth*
- *FY13 Calculation (based upon FY12 construction)*
 - *FY12 State's bond payment = \$1,875,500*
 - *Certified FY12 "New State Revenue" = \$1,642,530*
 - *Deficiency=\$232,970 to be paid by SSTTDC*
 - *Not due until 6-30-2014*
 - *Appeal in progress*
- *FY14 deficiency (based upon FY13 construction)*
 - *FY13 state's bond payment=\$1,875,500*
 - *Certified FY13 "New State Revenue"=\$497,197*
 - *Deficiency=\$1,375,686.35 (not paid)*

- *Appeal in progress*

***Parkway Bond
Reserve Fund***

- *Reserve Fund Established*
 - *By agreement with Commonwealth*
 - *LNR has paid a \$1M letter of credit*
 - *SSTTDC has paid \$290,092.52*
 - *SNR and STTDC jointly sought refund based of the reserve based upon the agreement*
 - *By letter dated December 27, 2012*
 - *Commonwealth has made contingent upon the appeals of deficiencies*
 - *No action has been taken to date*

Mr. Wilson noted that payment to the Commonwealth has been held in reserve pending appeal and has not gone missing as was alleged by the master developer in the last meeting. Mr. Wilson reviewed the history. Councilor Mathews noted the comment was made twice during the last meeting. He noted the comments were counterproductive to the discussion and the allegation egregious. Councilor DiFazio noted the comment was disingenuous.

Starwood's Continuing Discussion with Town Council regarding enabling legislation, MOU and legal review-Matthew Barry/Starwood Vice President-Robin Daniels/Direcotr of Development

Matthew Barry and Robin Daniels addressed the Council. Ms. Daniels noted that the FY11 deficiency that was due to the Commonwealth last June includes funding that the Navy paid at the closing that could have been made and still has not been paid.

Councilor Mathews noted that the Council is hearing two different stories and it needs to hear from the state. Councilor Smart also recommended coming to some resolution with the water bill for the parkway so the residents get some relief. Mr. Barry responded that it is clear that the parkway is owned by SSTTDC although bills were paid by the former developer in the past. He responded that it was not the first time bills were paid by the developer to keep SSTTDC afloat.

Mr. Barry reviewed in power point what came out in the April 7, 2014 presentation that included concerns regarding 3-town consensus, powers of the Advisory Board, language confirming Starwood obligation to procure water/sewer for complete project, the development plan and the poison pill, and reviewed Starwood's response to these concerns. Councilor DiFazio asked if there is anything in the proposal that doesn't permit the sale to a nonprofit. Mr. Barry responded there is no prohibition; use is open to all and no decisions have been made. There was a discussion of the proposed revisions as a result of the concerns. He noted that the Council has sent a letter recommending Burns & Levinson and the Mayor meet with Starwood, but Starwood has not been invited to do so at this time. Councilor McDonald noted that is troubling.

Mr. Barry noted a request came from the Council to consider a change in the name of the body politic for the redevelopment authority.

A motion was made by Councilor Harrington to confirm a change of the name of the redevelopment authority from South Shore Tri-Town Development Corporation to Southfield Redevelopment Authority in the proposed legislation. Council President O'Connor reported that a fresh name would be good for marketing the project. Councilor Mathews seconded the motion. Councilor Hackett asked if the term "redevelopment authority" might have legislative statutory implications. She agreed with the concept of a redevelopment authority rather than a municipality. Ms. Daniels noted the powers are outlined in the proposed legislation. Councilor Conlon noted that reuse and redevelopment are in different chapters of MGL and questioned whether changing it would weaken the powers. Mr. Barry will review and respond in writing.

Solicitor Lane noted that any approval of the legislation is within the executive authority of the Mayor and the effect of any vote by Council is tantamount to a resolution. Council President O'Connor disagreed with the Solicitor's ruling. The process has added substantial revisions to the current legislation and should the Council or the Mayor vote to act on it, it is up to the discretion of each of the branches.

Solicitor Lane responded that the Executive branch is very clearly by charter and although the Council has done a wonderful job asking questions and bringing out the major issues, the final authority is with the executive branch; the Mayor of the Town of Weymouth. Council President O'Connor disagreed with the Solicitor noting the final authority is with the state legislature. Solicitor Lane responded that as far as the approval of the final action, it is with the Mayor.

Councilor DiFazio noted they have been listening to the proposal for five months with no votes; why vote this when there is no measure before the Council? Councilor Conlon concurred. Solicitor Lane confirmed that there is no measure before the Council. President O'Connor responded that the entire legislation is the measure before the Council and it is to instruct the master developer of the opinion of the Council.

A ROLL CALL VOTE was taken by the Town Clerk: Councilor Conlon-NO, Councilor DiFazio-abstain, Councilor Hackett-NO, Councilor Harrington-YES, Councilor Haugh-YES, Councilor Lacey-YES, Councilor Mathews-NO, Councilor McDonald-YES, Councilor Molisse-YES, Vice President Smart-YES, President O'Connor-YES. VOTE carried 7/3 with one abstention.

Mr. Barry then reviewed the MOA draft.

MEMORANDUM OF AGREEMENT

THIS MEMORDANDUM OF AGREEMENT DATED ____ is by and between LNR South Shore, LLC (Master Developer) and the Town of Weymouth, Massachusetts, acting by and through its Mayor (Weymouth) (collectively, the Parties).

RECITALS

WHEREAS, Master Developer is the Master Developer of the former South Weymouth Naval Air Station pursuant to that certain Disposition and Development Agreement entered into between it and the South Shore Tri-Town Development Corporation as of May 5, 2004, and its most recently amended by the Tenth Amendment thereto, dated December 28, 2010, and in that capacity is responsible for the master-planned redevelopment of NAS South Weymouth (the Project);

WHEREAS, the Corporation is a body corporate and politic originally created pursuant to Chapter 301 of the Acts of 1998, which was amended and restated in Section 37 of Chapter 303 of the acts of 2008 (the Existing Enabling Act);

WHEREAS, of the 2,855 units of residential housing contemplated to be constructed as part of the Project, only approximately 314 have been constructed to date, and of the 900,000 gross square feet of commercial space contemplated to be constructed (at a minimum) as part of the Project, only approximately 8,700 square feet have been constructed to date;

WHEREAS, the Parties agree that the Master Developer's ability to continue to develop the Project, and the ability of Weymouth and the region generally to realize the economic and other benefits of the redevelopment process, require that the Existing Enabling Act be replaced with new legislation (the New Act);

WHEREAS, Master Developer and Weymouth agree that it would be desirable for the New Act to be enacted into law in substantially the form attached to this Agreement as Exhibit A, which form would among other things, establish within NAS South Weymouth a "Dedicated Commercial Zone" capable of accommodating the portion of the Commercial Minimum (as defined in the new act) that has not been developed to date;

WHEREAS, Section 18(e) of the New Act (in the form attached as Exhibit A) provides that the Dedicated Commercial Zone will be created as a new zoning district within NAS South Weymouth, in a location to be proposed by the Master Developer and approved by the relevant municipal legislative body;

WHEREAS, the purpose of the dedicated Commercial Zone is to ensure, for the benefit of the local and regional economy, that commercial development occurs as market conditions allow during the further build-out of the Project resulting in a balance between residential and commercial development that is fiscally sustainable and is

consistent with the mixed-use, transit-oriented design principles that have informed the planning process for the Project

WHEREAS, although approximately 46% of the land area of NAS South Weymouth is located within Weymouth, the Weymouth portion constitutes a disproportionate amount of the developable land, and, as a result, (i) 100% of the residential units constructed to date as part of the Project are located within Weymouth, and (ii) the majority of all future residential development at NAS South Weymouth is anticipated to be located within Weymouth;

WHEREAS, the Parties agree that in order to best effectuate the purpose of the Dedicated Commercial Zone, and in recognition of the fact that Weymouth is and will remain the host to a substantial share of the residential development that will occur at NAS South Weymouth, it is desirable that the Dedicated Commercial Zone be created entirely within Weymouth;

WHEREAS, the New Act is intended to preserve the commitments that the Master Developer has made with respect to the construction of passive and active recreational facilities at NAS South Weymouth, and the Parties agree that it is desirable to restate those commitments in this Agreement so that Weymouth may more directly enforce them; and

WHEREAS, the Parties intend to confirm their mutual understanding with respect to the siting of certain other public facilities to be constructed as part of the Project.

WHEREAS, the Parties intend to confirm their mutual understanding with respect to the siting of certain other public facilities to be constructed at part of the Project.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually covenant and agree as follows:

- 1. Capitalized Terms. Capitalized terms used but not defined in this Agreement have the meaning given to them in the New Act.*
- 2. Petition for Establishment of the Dedicated Commercial Zone. Following passage of the New Act in substantially the form attached to this Agreement as Exhibit A, the Master Developer agrees to submit to the Mayor of Weymouth a petition proposing the establishment of the Dedicated Commercial Zone in a location that is entirely within Weymouth (the “DCZ Petition”). The DCZ Petition, with the Mayor’s consent and following any other procedures required by the New Act and other applicable laws, shall then be submitted to the Weymouth Town Council for approval as an amendment to the Weymouth portion of the Zoning Map.*
- 3. Council Action on Petition. If the Weymouth Town Council approves the DCZ Petition (whether as submitted or in a form not materially different from what is*

submitted), then the Master Developer shall not thereafter seek to relocate any portion of the Dedicated Commercial Zone to a location outside of Weymouth without Weymouth's consent. If the Weymouth Town Council disapproves the DCZ Petition (or approves it only in a form that is materially modified from what is submitted), or if for some other reason not within the Master developer's control the Dedicated Commercial Zone is not established in Weymouth in a manner substantially consistent with the DCZ Petition, then the Master Developer shall be under no further obligation to establish the Dedicated Commercial Zone entirely within Weymouth.

- 4. Water and Wastewater. As required by the New Act, the Master developer shall, in connection with the establishment of the Dedicated Commercial Zone in Weymouth as contemplated in this Agreement, reserve for the Dedicated Commercial Zone, thus established, such portions of the Permanent Water Supply and Wastewater Capacity as are adequate and necessary to serve commercial development within said zone. The Master Developer shall enter into one or more design contracts with respect to the Permanent Water Supply and Wastewater Capacity within sixty (60) days of the effective date of the New Act, which contracts shall contain provisions requiring the design contractor(s) to substantially complete the design of the Permanent Water Supply and Wastewater Capacity within ten (10) months of the effective date of the New Act.*
- 5. Recreational Facilities. As required by Section 14(b)(4) of the New Act (in the form attached as exhibit A), passive and active recreational facilities shall be included in the further development of NAS South Weymouth, with such facilities to be of the type identified in the Reuse Plan, as shown on Exhibit B attached hereto, and to be delivered on a schedule set by the Master Developer. Notwithstanding the generality of the preceding sentence, the Master Developer shall not be required to construct or operate a golf course. The Master Developer shall, upon the request of Weymouth, enter into commercially reasonable agreements with Weymouth respecting Weymouth's usage of such facilities, regardless of whether such facilities are located in Weymouth or in other portions of NAS South Weymouth.*
- 6. School and Civic Sites. The Master Developer agrees that the "public school" and "civic or community facility" referenced in Exhibit B shall each be sited within Weymouth. The "civic or community facility" shall be located on a parcel of land not to exceed two (2) acres in size, shall be used for public safety (e.g. police or fire) purposes, and shall require the Master Developer's design consent before construction.*
- 7. Reporting. The Master Developer shall, upon reasonable advance written invitation from the Weymouth Town Council, attend up to one (1) meeting of the Council each calendar quarter, for the purpose of reporting to the Council on the status of the matters addressed in this Agreement and of the Project generally.*

8. Representations and Warranties of Weymouth. Weymouth hereby represents and warrants to Master Developer that the person signing this Agreement of behalf of Weymouth has all requisite power and authority under applicable law to execute and deliver this Agreement, and that this Agreement constitutes a valid, binding and enforceable agreement of the Town of Weymouth.
9. Representations and Warranties of Master Developer. Master Developer hereby represents and warrants to Weymouth that the person signing this Agreement on behalf of Master Developer has all requisite power and authority under applicable law to execute and deliver this Agreement, and that this Agreement constitutes a valid, binding and enforceable agreement of Master Developer and any successor to Master Developer as Master Developer.
10. Interpretation; Governing Law. Nothing in this Agreement shall be interpreted as derogating from or modifying the Parties' respective rights and obligations pursuant to the New Act. This Agreement and the rights and obligations of the parties hereunder shall be governed by and interpreted, constructed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

TOWN OF WEYMOUTH, MASSACHUSETTS, by: _____
LNR SOUTH SHORE, LLC, by: ____

EXHIBIT A
EXHIBIT B

Council President O'Connor reviewed why a vote was taken regarding changing the name but not other issues in the legislation. Councilor Harrington's suggestion to raise the number of senior units was also voted. Councilor Lacey commented on the letter from the Town Council to the Mayor and expects they will have a response in the near future. He noted work is being done to align a philosophy around the legislation. The Council has done a lot of work and although the Mayor has been cautious as to her engagement, she also is doing a lot of work in the background. Alignment is important going forward.

CFO William McKinney reported to the Council that the SSTTDC is current through the second quarter on payment for municipal services. He reminded the committee that while negotiations are underway for educational services at Southfield, the administration is also actively working to put together the FY15 budget.

ADJOURNMENT

The next regularly scheduled Town Council Meeting will be held on Tuesday, April 22, 2014, due to Patriots Day. At 10:54 PM, there being no further business, a motion was

made by Vice President Smart to adjourn and was seconded by Councilor Mathews.
UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Council President Patrick O'Connor

Approved on 5 May 2014