

**TOWN COUNCIL MEETING MINUTES**  
**Town Hall Council Chambers**  
**January 5, 2015, Monday**

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

Not Present: Brian McDonald, Councilor  
Michael Molisse, Councilor  
George Lane, Town Solicitor  
Richard Swanson, Town Auditor

Also Present: Kathy Deree, Town Clerk

Recording Secretary: Mary Barker

President O'Connor called the meeting to order at 7:30 PM. After the Pledge of Allegiance, Town Clerk Kathy Deree called the roll, with two members absent. President O'Connor reported that both Councilors McDonald and Molisse have family commitments.

**ANNOUNCEMENTS**

Councilor Conlon announced he will not hold morning constituent hours at Town Hall on Tuesday January 6, 2015, but hours scheduled from 4:00 to 5:00 PM at the Fogg Library will remain.

**MINUTES**

**Budget/Management Committee Meeting Minutes of December 1, 2014**

A motion was made by Vice President Smart to approve the minutes of the Budget/Management Committee Meeting of December 1, 2014 and was seconded by Councilor Mathews.  
UNANIMOUSLY VOTED.

**Town Council Meeting Minutes of December 1, 2014**

A motion was made by Vice President Smart to approve the minutes of the Town Council Meeting of December 1, 2014 and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

**Long Range Planning Committee Meeting Minutes of December 3, 2014**

A motion was made by Vice President Smart to approve the minutes of the Long Range Planning Committee Meeting of December 3, 2014 and was seconded by Councilor Mathews.  
UNANIMOUSLY VOTED.

**Economic Development Committee Meeting Minutes of December 4, 2014**

A motion was made by Vice President Smart to approve the minutes of the Economic Development Committee Meeting of December 4, 2014 and was seconded by Councilor Mathews.  
UNANIMOUSLY VOTED.

## RESIDENT AND COMMUNITY COMMENT

### Financial Obligations at the South Weymouth Naval Air Station-Dominic Galluzzo of 86 Candia Street

Mr. Galluzzo read a prepared statement to the Council:

*"It is hoped that the majority of this Council will tonight, not tomorrow, clear up resident taxpayer concerns and execute its fiduciary responsibility to the Weymouth residents by posing the following questions that require only a yes or no response from Mr. Barry who has been representing Starwood/LNR since early 2014.*

*It is requested that the following questions be the first order of business attended to by this Council before Mr. Barry makes any statement. Given that this Council has gone out of its way and afforded him as many Special meetings as he requested and that it has been recently reported that Representative Ronald Mariano who has backed this new legislation has also felt the sting of the slap in the face administered by the incomparable Mr. Barry.*

- *By not paying taxes in timely manner guilty, isn't Starwood guilty of interfering with the progress of the development that they claimed SSTTDC was guilty of?*
- *Is holding Abington, Rockland and Weymouth hostage in an effort to shake down the state of Massachusetts for another \$40 million justified?*
- *It was apparent that Starwood/LNR was not being held responsible by Weymouth elected for paying its bill. For all of 2009-first half of 2010 LNR was overdue paying a \$139,000 of a \$199,000 water and sewer bill as per a public records request. Is Starwood/LNR current with its financial obligations, namely water and sewer to the Southfield Redevelopment Authority and therefore current with Weymouth?*
- *Is Starwood/LNR current with its Host Community financial obligations?*
- *Is Starwood/LNR current with its land sales percentage payment agreement with Weymouth?*
- *Is Starwood/LNR current with its financial obligation to the Navy?*
- *Is Starwood/LNR current with its financial obligation to the state?*
- *Does Starwood own the NAS transferred land or does LNR own the NAS transferred land?*

*Last but not least: I ask that you act with extreme caution when dealing with Mr. Barry. Whether you all recall or not, in June, July and August 2014 Mr. Barry, in what now is a successful effort to have Weymouth support the ousting of the SSTTDC, told this Council that there was not interest by outside developers to participate in moving the Southfield project forward and it was SSTTDC's fault...*

*Be mindful, in mid October 2014 after the legislation was passed and SSTTDC is now abolished, Mr. Barry, during a power point presentation to the SRA has stated that he was in negotiations with the Pulte Group three months prior! (Mid-July) This is an example of a complete misrepresentation to this town council set forth to you in order for Mr. Barry to obtain what he wanted with a total disregard for the truth. It appears now that Mr. Barry's refusal to pay his real estate taxes on time to RDA and more importantly not respond as to why when inquired by the RDA, is an illustration of Starwood's continued lack of fair play and respect for our community. This is only the beginning, what will be do next?*

*As reported in the Quincy Patriot ledger the following key issues remain unresolved; **Control of the project, Environmental Impacts, Traffic, Revenues, Services and Water/Sewer infrastructure**, in that order. This article was published ten years ago in 2005!! Unfortunately due to copying laws I cannot provide this Council and the press with copies of it. I hope that it will be republished by the Ledger so everyone can read the details and realize how little has changed.*

## **PUBLIC HEARINGS**

### **14 114-Free Cash-OPEB Liability Trust Fund, continued from December 15, 2014**

A motion was made by Vice President Smart to reopen the public hearing on measure 14 114-Free Cash-OPEB Liability Trust Fund and was seconded by Councilor Mathews. This was advertised on December 5, 2014 and was continued to December 15, 2014. UNANIMOUSLY VOTED.

President O'Connor reported that the public hearing was supposed to have been continued for a time following the OPEB Actuarial Report presentation, but they received word that Mr. Frank (Aquarius Capital) would not be able to get here. The report is available and has been distributed to the Council and is available on the website. They are trying to reschedule to a time prior to the continuation of the public hearing, but request a continuation to January 20, 2015.

A motion was made by Vice President Smart to continue the public hearing on measure 14 114-Free Cash-OPEB Liability Trust Fund to the January 21, 2015 meeting and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

## **OLD BUSINESS**

### **Southfield Update**

#### **-Southfield Redevelopment Authority Board Members Walter Flynn, Patricia O'Leary -Starwood Vice President Matthew Barry**

Walter Flynn and Patricia O'Leary, SRA and Matthew Barry, Starwood presented an update to the Council.

Walter Flynn reported that the Authority started their work in September and they have accomplished much in ninety days. There is cohesiveness on the board, and the staff at Southfield has been helpful. They met all of the trigger points in the legislation that were required prior to January 1<sup>st</sup>. The state has approved the redevelopment plan and the Memorandum of Agreement for deferral of payments on the bond and phase II Parkway Plan. The MOA includes a deferral of payments- not a waiver- through FY2018. These will not have to be carried on the tax rolls for the period of time indicated. They also received approval from the state to complete Trotter Road to Delahunt of Phase II and from the SRA perspective, accomplished what they needed to. Now they have a budget to set the tax rate (in February) and then look at an amended supplemental budget for the remainder of 2015. They met with DOR and will move forward incrementally. They have already signed the DDA and took all existing regulation including the DDA and made them conform to the legislation, as required by law. Next quarter will entail making the changes to the DDA with the developer.

Councilor DiFazio asked to reconcile the legislation with the progress that has taken place, particularly in Section 19. There were four items contingent on 34 B&C – were to have happened January 1<sup>st</sup> (transfer of public roads, begin collecting taxes January 15<sup>th</sup>, begin providing services to Southfield, and terminate service contracts). Mr. Flynn responded that all have successfully been met. Roadways were transferred--over Mayor Kay's objection. It was required by law to be completed by January 1<sup>st</sup>. The collection of taxes can't move forward without having a tax rate set.

Councilor DiFazio asked if the service agreements are still in effect. Mr. Flynn responded that the current service agreements were terminated on December 31<sup>st</sup> and they have not had time to get new contracts in place, but expect to have them at their next meeting for signature. Councilor DiFazio noted it sounds like they have met the meat of the legislation. He asked if it means that pursuant to the mitigation agreement, on April 1<sup>st</sup> --if there will be a design contract for permanent water and sewer? Mr. Flynn responded that the question is for LNR to answer. Mr. Barry responded that they will comply with the development mitigation agreement. Councilor DiFazio noted LNR was to

have forwarded an amenity plan construction schedule by 12/20/14- and asked if this has been completed. Mr. Flynn responded no, but the amenity plan that was included in the DDA would be carried forward. Mr. Barry objected to the dates.

Mr. Barry began his review. Councilor Lacey asked that Mr. Barry first respond to the questions posed by Mr. Galluzzo from his earlier comments under "Resident Comment":

- By not paying taxes in timely manner guilty, isn't Starwood guilty of interfering with the progress of the development that they claimed SSTTDC was guilty of?

Mr. Barry responded no.

- Is holding Abington, Rockland and Weymouth hostage in an effort to shake down the state of Massachusetts for another \$40 million justified?

Mr. Barry responded that this is an inaccurate statement.

- It was apparent that Starwood/LNR was not being held responsible by Weymouth elected for paying its bill. For all of 2009-first half of 2010 LNR was overdue paying a \$139,000 of a \$199,000 water and sewer bill as per a public records request. Is Starwood/LNR current with its financial obligations, namely water and sewer to the Southfield Redevelopment Authority and therefore current with Weymouth?

Mr. Barry responded that the water obligations are paid in full. They are working with the SRA for back up on one bill and MassDot has taken ownership of another and is assuming responsibility for its payment.

- Is Starwood/LNR current with its Host Community financial obligations?

Mr. Barry responded yes, and will pay an additional \$700,000 at the close of negotiation of the current sale.

- Is Starwood/LNR current with its land sales percentage payment agreement with Weymouth?

Mr. Barry responded that he is unsure what document this refers to.

- Is Starwood/LNR current with its financial obligation to the Navy?

Mr. Barry responded that they are in discussions with the Navy to resolve some concerns with the sale to Pulte. It is currently in dispute.

- Is Starwood/LNR current with its financial obligation to the state?

Mr. Barry responded that to his knowledge they are in full concurrence with their financial obligation to the Commonwealth.

- Does Starwood own the NAS transferred land or does LNR own the NAS transferred land?

Mr. Barry responded that several entities own the land. There are the homeowners, Corcoran, the vast majority of the undeveloped land is owned by LNR South Shore LLC

and the Navy still owns land. They have sold land.

Councilor Lacey asked for a layout of ownership of each parcel on Southfield.

Mr. Barry noted that they are in agreement with the overview provided by the board. There were many issues to resolve in the first 90 days and they have been working to reintroduce the project to the market. The only issue in dispute is whether the parkway phase II MOA has been reached. The commonwealth has offered an interim solution. The best that they can do is 900,000 square feet of commercial development.

Councilor Mathews noted the water/sewer payment would be made by Starwood to SRA and then by SRA to the town of Weymouth. Mr. Flynn reviewed the bill in dispute with MassDOT that hasn't been paid yet. Councilor Mathews asked if the Appellate Board has heard the tax dispute as of yet? Mr. Barry responded that the date has been set; he will provide it to the Council.

Councilor DiFazio noted that based on the responses, the criteria has not been met under the terms of 34C. He noted that LNR hasn't paid taxes but intends to on 1/15- he asked why they are not paying taxes on time and why they refuse to answer as to the reasons why they remain unpaid. Mr. Barry responded that the company made a business decision back on November 1<sup>st</sup> based on the information that they had, and not having had any agreement-written or otherwise. Their understanding of the legislation at that time was that the parkway agreement had to be met by October 15, 2014. Negotiations have continued and they believe they are close to an agreement. They have requested the SRA Board provide an invoice (inclusive of all penalties and interest) for a payment to be made on January 15, 2015. He noted the decision was made to question it, as is the right of any property owner. Councilor DiFazio asked if a decision was made that was advantageous to Starwood, even though it was adverse to the relationship with the town of Weymouth; that the company comes first before the partnership relationship with the town? Mr. Barry disagreed with the characterization of Councilor DiFazio's remarks.

Councilor Conlon asked if according to the mitigation agreement between LNR and the town, under the mitigation payment schedule, if the master developer is obligated to make a \$1.2 million obligation payment? Weymouth assumed the responsibilities on January 1, 2015; thirty days following that, on January 31, 2015 the mitigation payment is due. Will it be paid on that date to the Town of Weymouth? Mr. Barry responded that he hasn't calculated the dates, but they intend to comply with the mitigation agreement.

Council President O'Connor asked for more information regarding the dispute with the Navy and Starwood regarding the land sale. Mr. Barry responded that it is a question of what is the fair market value. The Navy is questioning it and it is currently in discussion but it should not halt the land sale. They will conclude negotiations with the Navy over time. Pulte will continue with the development of 100 homes; which are a mix of one and two bedrooms transit oriented development near the rail system.

President O'Connor asked the SRA reps as to the financial issues within the former SSTTDC board; what was the financial situation when it took over (SRA) and what is the situation today with unpaid taxes. Mr. Flynn responded that the water bills were reviewed. They assessed the resident a significantly higher payment in the past. That was resolved and the rates were lowered. The MOA was passed. With the sale of Pulte, they pick up the fees, plus there was a check sitting in a drawer to pay this year's deferment payment. Discussion started today and the financial situation is good. The lynchpin at DOR is retiring this month, and so it will be early February when the tax rate will be set.

President O'Connor noted that the Council is disappointed with Starwood's decision not to pay their taxes, but he is glad to hear in spite of this, that the SRA is in stable financial position.

Councilor Hackett noted that Mr. Barry's financial decision cost the town \$400,000 because the town was unable to pass a supplemental budget which included that revenue. Once again, Weymouth will not receive payment for services in the year in which they were provided and this year it was as a result of a business decision made by Starwood. She noted she was extremely disappointed in this-it was a major factor in her support when she voted to approve the legislative changes.

Councilor Mathews asked about the vote of SRA to transfer the public ways. He asked if he is correct in assuming that the Council must also vote to accept the public ways. Mr. Flynn responded no; that by law, the town had to accept them under the legislation. It does not require a vote of the Council. Mayor Kay was not in agreement and Burns & Levinson sat with her to review the legislation. Councilor Mathews agreed with her in that it transferred the liabilities to the town. There are still streets in the town that the town will not accept because of the liability, especially if the DPW did not have the chance to review what underground utilities there are. Patricia O'Leary noted that this effects only two roadways. Moving forward, as roadways are added, they will go through the normal process of acceptance.

Councilor Haugh asked if Weymouth is responsible as of January 1<sup>st</sup> to assess taxes and provide services to Southfield? Mr. Flynn responded in the affirmative. She asked if in addition to the mitigation payment mentioned by Councilor Conlon,if Starwood still intends to pay for the Chapman School study \$1 million thirty days after the town assumes responsibility for assessing tax and municipal services. Mr. Barry responded that he will reread the agreement; he believed the \$1 million for the Chapman study is a reimbursement and not an upfront payment. She asked if they were willing to pay this obligation on January 31, 2015 per the DDA, if the town wanted to move forward with the study? Mr. Barry responded, yes, but per the terms of the agreement.

Councilor Conlon reported that Councilor Mathews is correct and Mr. Flynn is incorrect in the road acceptance terms. He read aloud the language from the present Enabling Act, Section 19:

*"No later than January 1, 2015 the Authority and the Master Developer as the case may be, will take all actions necessary to transfer to the applicable town control of all existing public ways or ways maintained and used as public ways located in South Weymouth together with associated infrastructure including public utilities and sewer and storm drains located within or adjacent to the rights of such ways located within way and each town shall without regard to requirements of Chapter 82 of the General Laws or other General Special Laws except the applicable portion of such public way or ways in said town. Each town shall accept as a public way any new public way and associated infrastructure developed constructed or acquired by the Authority or the Master Developer as the case may be within South Weymouth following the effective date of this act provided that the Board has approved the layout and construction of such way is consistent with the Authority's subdivision regulations and provide further that the customary street acceptance procedures of the town in which the way is to be accepted as a public way are satisfied and such town agrees that the way has been constructed in accordance with such regulation."*

Mr. Flynn responded that there was a period or comma missing within the verbiage. President O'Connor requested Mr. Flynn resolve any language discrepancy for the Council. Council Vice President Smart noted that during the legislative presentation changes he thought once the legislation was approved they would not go forward with the assessment matter and would accept the town's assessment. Mr. Barry responded that the abatements for 2016 will be the first year for assessment. The pending case is for 2013 and 2014 and has not been adjudicated. Values for fiscal year 2016 will be assessed by the Town of Weymouth. Council Vice President Smart also validated the hard work by the Board in the time they have been formed.

Councilor Harrington asked if the nonpayment of taxes was a strategy for leverage by Starwood. He asked if this will also be beneficial to the town. What was the effect? Mr. Barry responded that on November 1<sup>st</sup> they did not have a parkway deal. Now they are close to having a full financing agreement with the Commonwealth paying the full cost. Councilor Harrington asked if Mr. Barry believed it was an effective strategy to promote the company's agenda and that in the long run it will be beneficial? Mr. Barry responded that the negotiations for the parkway were not benefitted by the decision; it was not associated decisions for leverage or benefit.

Council President O'Connor asked Mr. McKinney about the taxation and what sort of revenue will the town see in the upcoming year. Mr. McKinney responded that it's too early to tell without a tax rate having been set. President O'Connor asked Mr. McKinney to keep the Council apprised as the information becomes available.

Councilor Mathews noted the importance of obtaining resolution as to why the Appellate Board has not set a hearing date for two years on this particular dispute. What is considered a reasonable time for a hearing? He hoped the SRA would look into the delay and expect a resolution. Mr. Barry responded that he hoped the appraisers would take an independent look at it as new growth. The Appellate Board decision should not be a factor. They can move forward with the abatement but would prefer not to. Councilor Mathews responded that if the Appellate Board upheld his opinion as a homeowner, he would expect the Assessor would have to take that determination into consideration.

Council President O'Connor thanked the Board members and asked Mr. Barry to review the questions that were brought up by Mr. Galluzzo and to provide the information requested to the Council office. He expressed his hope that the tax bill would now be paid timely.

**Board of Health Regulation #33-"Bodyworks Regulation"-President Patrick O'Connor**

President O'Connor reported that this matter was brought forward at the request of resident Robert Montgomery Thomas for further review at a recent Council meeting. This regulation took effect January 1, 2015.

A motion was made by Vice President Smart to refer item "Board of Health Regulation #33" to the Ordinance Committee and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

**COMMUNICATIONS AND REPORTS FROM THE MAYOR, TOWN OFFICERS AND TOWN BOARDS**

**15 001-Appointment to the Historical Commission-Michael Murphy**

Mr. William McKinney requested on behalf of the Mayor that the Town of Weymouth appoint Michael Murphy of 425 Front Street to the Historical Commission for a term to expire on June 30, 2017.

A motion was made by Vice President Smart to forward measure 15 001- Appointment to the Historical Commission-Michael Murphy to the Budget/Management Committee and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

**15 002-Appointment to the Recreation Commission-Mark Kilban**

William McKinney requested on behalf of the Mayor that the Town of Weymouth appoint Mark Kilban of 12 Clinton Road to the Recreation Commission for a term to expire on June 30, 2015.

A motion was made by Vice President Smart to forward measure 15 002- Appointment to the Recreation Commission-Mark Kilban to the Budget/Management Committee and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

## **REPORTS OF COMMITTEES**

### **NEW BUSINESS**

#### **OPEB Actuary Report (July 1, 2013 through June 30, 2014)-Michael Frank, President and Actuary/Aquarius Capital Solutions Group**

This matter was referred to a future meeting date as Mr. Frank informed the Town Council President he was unavailable.

## **ADJOURNMENT**

The next meeting of the Town Council is Tuesday, January 20, 2015, due to the Martin Luther King, Jr. Holiday. At 8:45 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 Patrick O'Connor as Town Council President

Voted unanimously on 20 January 2015