

**TOWN COUNCIL MINUTES**  
**Town Hall Council Chambers**  
**February 4, 2013, Tuesday**

Present: Arthur Mathews, President  
Patrick O'Connor, Vice President  
Francis Burke, Councilor  
Robert Conlon, Councilor  
Kenneth DiFazio, Councilor  
Jane Hackett, Councilor  
Edmund Harrington, Councilor  
Thomas J. Lacey, Councilor  
Brian McDonald, Councilor  
Michael Molisse, Councilor  
Michael Smart, Councilor

Also Present: William McKinney, Chief Financial Officer  
George Lane, Town Solicitor  
Kathy Deree, Town Clerk  
Richard Swanson, Town Auditor  
James Clarke, Director, Planning & Comm. Development  
Michael Gallagher, Community & Administrative Services  
Michael Coughlin, Director, Human Resources  
Joseph Comperchio, WPD  
Paul Milone, WPD  
Joseph Davis, Chief, Weymouth Fire Dept.  
Dr. Kenneth Salim, School Superintendent  
Tom Slattery, Weymouth Public Schools

Recording Secretary: Mary Barker

President Mathews called the meeting to order at 7:30 PM. After the Pledge of Allegiance, Town Clerk Kathy Deree called the roll with one member absent. President Mathews reported that Councilor McDonald was delayed and will arrive late.

**ANNOUNCEMENTS**

Councilor Hackett announced:

*I'd like to offer a moment of silence for Mrs. Alma Driscoll. She was a life long resident of Weymouth, an English teacher for 49 years at the Bicknell and South Junior High Schools, and the driving force of St. Francis Xavier Parish in South Weymouth. She died at the age of 102 this past week. She literally made literature come to life for thousands of students, fought for equal pay and rights for women teachers, and was steadfast in her faith and pride for our community. I'd like to invite my colleagues to join me in a moment of silence for Mrs. Alma Driscoll.*

A moment of silence was observed.

Councilor Conlon reported that he will hold constituent hours on Tuesday, February 8<sup>th</sup> from 10:00 -11:00 AM in Council Chambers at Town Hall, and from 5:00-6:00 PM at the Welcome Center on Southfield.

## MINUTES

### **Town Council Meeting minutes December 3, 2012**

A MOTION was made by Vice President O'Connor to continue on the table the minutes from the Town Council Meeting of December 3, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED, 10/0.

### **Budget/Management Committee Meeting minutes January 7, 2013**

A MOTION was made by Vice President O'Connor to approve the minutes from the Budget/Management Committee Meeting of January 7, 2013 and was seconded by Councilor Smart. UNANIMOUSLY VOTED 10/0

### **Town Council Meeting minutes January 7, 2013**

A MOTION was made by Vice President O'Connor to approve the minutes from the Town Council Meeting of January 7, 2013 and was seconded by Councilor Smart. UNANIMOUSLY VOTED, 10/0.

## RESIDENT AND COMMUNITY COMMENT

### **Plight of Taxpayers-Dominic Galluzzo, 81 Candia St.**

Dominic Galluzzo provided a handout to the Council President. He asked the Council's indulgence because his COPD was acting up and affecting his actions, breathing and speech. He noted he sat before the Council in September 2012 to address the many burdens placed on Weymouth taxpayers, and noted the point of that address was missed. With no discussion allowed, he challenged the Council to address the issues. However, it accused one of its own members of bullying a representative of the Southfield Residents' Association, who want the Council to solve their residential problems at Southfield, despite not paying real estate taxes to Weymouth. He reported those actions insulted the 19,000 real estate taxpayers who pay Weymouth's bills including the Council's stipends and benefits. He noted, for the record that this is depreciating the town's personal and business properties and its future while levying higher and higher fees and taxes to cover municipal services offered to SSTTDC. He reported it is indicative of a misappropriation of taxpayer funds to support special interest. By example, for all municipal services, stated in the July 2012 report by Mr. Swanson confuses him. He referred the Council to the document he provided (distributed to each member and the Auditor). Mr. Galluzzo reported his confusion surrounding water usage, hourly rate and totals billed. He noted with regard to water usage the public information request asked for the amount invoiced to SSTTDC for water usage. The response was \$199,000, but the report also exposed that \$138,000 was long past due. SSTTDC was not paying its bill as it had agreed. That was in 2010. Using the numbers he received, and the amount invoiced in 2010, it appears the

town invoiced more money in 2009 for water, although there was no one there at the time. Fiscal 2011 shows only an \$8,000 increase and a \$74,000 increase in 2012, at a time when SSTTDC tells us from 2011 to 2012 it executed \$60,000,000 in construction. He asked how the numbers correlate. He also was surprised the Council did not tell its auditor it does not bill Southfield as the document indicates it does. The town invoices SSTTDC only; just like Southfield does not pay taxes to Weymouth, Weymouth does not invoice Southfield. Further reviewing the statement of accounts, he noted there is a huge disparity in what's being reported. For example, the amount billed for services by the IT Dept. was indicated with a dollar figure and hours billed and the rate. The same information was not provided in the report for the police and fire services-no hours or rates, nor for Municipal Finance Department, although Mr. McKinney has noted he is there more than he should be. He asked how the town knows where it stands. DPW information included amounts billed and hourly rates. He also asked why the same amount was billed in two consecutive years by the Planning Department. He asked if those fees referred to inspectional services. The recent water agreement opened by the Mayor on 10/15/12 added a reduced water cost step in a misguided effort to help Southfield residents. This money took more money out of the pockets of Weymouth taxpayers, and subsidized SSTTDC and establishes a precedent to abandon all recently-signed agreements as non-binding which is the job of a legislative check and balances body, is his belief. Weymouth's 2012 operational police budget was \$10,000,000 to support 24/7 police protection., In the 2013 current agreement, Weymouth will invoice SSTTDC \$53 per hour for regular police patrols. Referring to the 2012 report, there is no hourly rate indicated. He understands that on 1/1/12 a proposal was sent to SSTTDC similar to the agreement that will be in effect in 2013 that wasn't signed by SSTTDC until August. For all of 2012, SSTTDC has the benefit of a fire department at a cost of \$20,190 and a police department \$15,249. He reported that town government is putting his tax dollars in jeopardy, and asked who needs them. The form of government was changed because of gridlock and asked if this form is any better. The Navy transferred the land to SSTTDC in December 2011 as part of a no-cost reuse plan. Southfield is nothing more than a development. He referred to comments made by Councilor Lacey regarding SSTTDC's status as a municipality or corporation and asked why would the town want to continue in dealings at the expense of the taxpayers of Weymouth. He noted every taxpayer should expect to receive a tax rebate for the number of hourly patrols dedicated to police protection of SSTTDC property. According to the agreement, no less than 3 hours patrol for every 24-hour police shift or a 1,091 hours minimum annually, as well as the hours of police protection that the town is no longer getting. Same goes for the fire department as the fire protection is presented in a separate agreement. The operational fire department budget is approximately \$1,000 per hour or \$8,000,000 annually. If these agreements indicate the appropriate costs to SSTTDC, then they must be appropriate for every Weymouth real estate taxpayer. SSTTDC offers no funding to expand the Weymouth police or fire department personnel or equipment, so the question is: when did this Council vote to accept the January 1, 2012 public safety agreement and the July 1, 2012 police and fire municipal service agreements? He then reviewed the totals on the document provided. He reported that the 2011 invoicing totaled \$156,461; the 2012 \$253,301, an increase of \$96,840. Mr. Wilson reported back in March in the SSTTDC budget that it was once again past due on its water and sewer services to the

tune of \$40,000. He asked if this amount impacts any of the 2011 or 2012 numbers. Without that past due amount, the 96,840 increase from FY11 is counterbalanced by \$74,000 in water. The difference of 23,000 remains to pay for fire, police, DPW. He asked if the town might be in the red, which he is interpreting from the document. The real rub is that the neighborhood association held a meeting on January 30, 2013 at which it was publicized the Mayor was to be present to answer all questions. He read from a prepared text: in answer to a question -Public safety is necessary for Southfield development; construction, all within the borders of the town of Weymouth, and residents of the town for all other purposes. The town of Weymouth is the primary answering point for Southfield. All 911 calls default to Weymouth police. Agreements were necessary to obtain reimbursement from SSTTDC for services. Whoever put a gun to this government's head to say that we had to come to an agreement to get a reimbursement? They told the Council more than once they were going to go out to bid; (you) put us in harm's way. There's no way around it; the cost to add a sector for police and fire engines would have been prohibitive, for both the town and SSTTDC. He asked, when did their lack of revenue become our problem? We have problem enough running our own town. That's their development. They told that development that they could handle it; that they could fund it. Well obviously, again, they sold this government a pink elephant. They don't even want to contribute half to the cost. They're going to take the cheap way out; as cheap as Weymouth will allow, and according to the document, \$20,000 for fire protection and \$15,000 for police protection is a pretty good deal. Mr. Galluzzo requested the same thing; he asked the Council to give us what you gave them and he'll go away. In writing: Cost prohibitive for the town and SSTTDC. SSTTDC revenue, may, in the future, become available. He asked if that was a disclaimer. He noted to the Council that there is no agreement or instrument to apply for tax relief for taxes paid in good faith and spent irresponsibly. He asked why not? He also asked if Councilor Harrington's effort to itemize the town's debt a precursor to another override proposal, rather than spearhead an effort to collect money owed. He asked for an explanation where the \$6,000,000 from Tri-Town is, or initiate a forensic audit motion to the full Council. He directed to Councilor Harrington: the economic slowdown did not bypass Weymouth, which you expect to fund the expansion of our police and fire departments, by your remarks. He noted the 19,000 taxpayers either must stand up or remain silent servants to an incompetent government. Councilors Hackett and Lacey tried to interject at this point. President Mathews interrupted while Mr. Galluzzo concluded his remarks- our tax dollars were never meant to benefit the special interest of a local redevelopment authority. Our government has lost its way; not even interested to collect the 46% of revenues declared \$4.3 million in free cash owed from Southfield. It takes guts to stand up; not so much to remain seated and silent; it's our choice. He concluded by apologizing for his emotional remarks.

Council President Mathews responded that Auditor Swanson will report out later in the meeting with updated information. He suggested Mr. Galluzzo call and speak with the auditor regarding the numbers. He also noted that the Council has asked the Town Solicitor what role the Council plays in inter-municipal agreements. The Town Solicitor has told the Council they do not have a role. The Council must abide by his opinion whether or not they agree, as outlined in the code of Ordinances. He also noted that Mr.

Galluzzo has been allowed to come before the Council more than once, and he does not like hearing that the Council does not listen to him. There is a 5-minute rule, and he was allowed to continue for 20 minutes, for the second time in four months on the same topic matter. Rule 28 (g) –“...items repetitive in nature shall not be allowed in the Council without the leave of the President.” President Mathews noted he has done this, so to say that the Council does not do or allow things; he would disagree with that assertion. Going forward, he noted Mr. Galluzzo has a good point and he thinks the Council will look into it. Through the budget season, department heads will be asked specific questions about base revenue to determine if they align with Mr. Swanson’s review and spreadsheets. If they do not, they will be looked at further. He concluded that there are things Mr. Swanson is doing as auditor that can’t be disclosed due to confidential nature, and asked Mr. Galluzzo to keep this in mind.

Councilor Conlon thanked Mr. Galluzzo for coming forward. He concurred with a lot of the presentation, but noted as a Councilor, he has no input in the contract negotiations. He saw them five days after they were signed and sealed. He did make a public comment that he was against those contracts, and still is, but did not see them prior to execution. He would like to meet with Mr. Galluzzo to go over the billing document that was provided. The most important thing is gaining knowledge from him and anyone else in town who wishes to speak before the Council.

Mr. Galluzzo responded to President Mathews that he has spoken with Auditor Swanson and noted the confusion is not the billings but that he is getting the numbers from somewhere else and passing them along to the Council. The individual providing them is saying they are billings to Southfield and that is incorrect, and he said he was surprised this Council didn’t advise its own auditor that the heading of this particular document was incorrect. He means no disrespect to the Council.

During this discussion, Councilor McDonald arrived, at 8:07 PM.

## **PUBLIC HEARINGS**

### **13 001-Creation of Harbormaster Revolving Account**

A motion was made by Vice President O’Connor to open the Public Hearing on item 13 001-Creation of Harbormaster Revolving Account, which was published on January 25, 2013 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

CFO William McKinney and Capt. Comperchio of the WPD presented the request for the police department to establish a revolving account for the benefit of the Harbormaster program for the duration of the Fore River Bridge construction. In September 2012 construction began for the replacement of the bridge and which will require ongoing police details, both on the bridge and the surrounding waterways. With that in mind, the police boat has been billed to the contractor at a rate of \$50 per hour. The average hours will be 8-16 hours per day; most likely 10 hours per day average. The projected revenue generated will be between \$60-72,000 per year. The police department would like to generate the revolving account to aid the Harbormaster for expenses during the course of

the construction. There will be additional fuel costs, docking and storage fees to dock the vessel in Quincy, and anticipated maintenance charges for the boat.

A motion was made by Vice President O'Connor to close the Public Hearing on item 13 001-Creation of Harbormaster Revolving Account and was seconded by Councilor Smart. Councilor Conlon began comments pertaining to the measure, and Councilor Smart noted as a point of order that comments must pertain only to the motion to close the public hearing. Council President Mathews noted Councilor Conlon could make his comments later during the Report of Committees. UNANIMOUSLY VOTED.

## OLD BUSINESS

- Town Auditor-Richard Swanson- Update on the following:
- LNR Mitigation Funds
- LNR water and sewer/other payments
- Billings for services to Southfield
- Special Purpose stabilization fund
- King Oak Hill property
- Free Cash
- General Stabilization fund, reserve funds and Community Preservation Fund
- Fogg Library Renovations

Auditor Swanson provided a power point presentation reviewing the quarterly report, with excel spreadsheets for each schedule.

Mitigation-the total payments to be made per agreement is \$13million. LNR has paid \$3,268,951 leaving a balance of \$9,991,805 to be paid in the future.

Councilor Hackett asked if the payments in June 2006 went to fund 8533 and beginning in December 2010, the HC revenues began being booked to the general fund of the town operating budget; to fall to free cash to be appropriated for use. Later the Council established a special purpose stabilization fund. Mr. Swanson concurred. Councilor Hackett asked for confirmation that schedule 1 reflects the general fund deposits, less the \$1.9 million. Auditor Swanson agreed.

Councilor Lacey made a recommendation that a running total shows money already moved out and expended so that the total going forward is not misleading. President Mathews responded that this should be a part of the general discussion when Budget/Management deliberates the subject.

Auditor Swanson then provided an update on Schedule 2- the Enterprise funds-Water and Sewer, other and interest. Councilor Lacey asked the balance in both accounts as stated in the update are current today. Auditor Swanson responded yes.

Summary of services to Tri-Town to December 31, 2012- Auditor Swanson reviewed the billings. He noted the numbers were provided by the administration and not generated by the auditor.

Councilor Hackett asked if the police and fire billing for services includes any amounts for services rendered in FY12. Auditor Swanson responded no. Councilor Hackett asked if the auditor was aware of any billings that were billed for FY12. Auditor Swanson responded he was aware only of the two amounts listed on the schedule. Councilor Hackett noted her understanding was that when the service agreements were signed, there was to be retroactive billings to reconcile the agreement and prior services provided. She believes the numbers show a 6 month's deflation and in going forward, should more accurately reflect services. Auditor Swanson noted the police and fire billings are fully loaded costs; they include labor, expenses and overhead. It is not based on an hourly rate.

Councilor Molisse asked for confirmation that nothing has been charged to the Building Department yet this year. Auditor Swanson concurred. Councilor Molisse asked if this would include permitting fees. Auditor Swanson responded that they have not billed anything yet.

Councilor DiFazio asked if the fire and police amounts are pursuant to the agreement the Mayor signed. Auditor Swanson responded yes. Councilor DiFazio asked where the money is deposited. Auditor Swanson responded that those funds are deposited to the Mayor's budget.

Councilor Lacey asked the auditor to further explain police and fire in light of the earlier citizens comments. He asked the auditor to provide to the Council members what the "fully loaded" costs includes as it pertains to the fire and police services. Auditor Swanson responded that he will provide that information to the Council. President Mathews asked CFO McKinney to provide clarification to the Council on where the funds are going from the billings- he was of the understanding that funds go to the general fund and Councilor Hackett requested it be clarified for the viewing public. CFO McKinney responded that revenue from SSTTDC is classified under Mayor's revenue, a category within her revenue projections, and not her general budget. Because the billing is generated from the Mayor's office to Tri-Town, payments come in to the Mayor's revenue line item; the general fund-Town of Weymouth budget. Councilor Lacey requested the auditor follow up to make sure that Building and Planning Departments are billing in a timely manner to avoid what has been past practice.

CFO McKinney also noted that over time, SSTTDC has taken on a lot of responsibilities that Weymouth used to do for them, which is why there aren't Planning and Building Services represented in the schedule. Weymouth has collected for all these services provided to date.

Auditor Swanson then reviewed Schedule 4- LNR Mitigation Stabilization Fund. He reviewed the transfers into this fund and the appropriations by Council for various projects.

Auditor Swanson reviewed Schedule 5- King Oak Hill property, which tracks the acquisition and expenses related to the property. He then reviewed schedule 6-Free Cash analysis; its certification and appropriations by Council. He reviewed the Enterprise fund balances. Council President Mathews noted that money in each of the Enterprise funds may only be used for projects within each of those funds and cannot be appropriated for any other purpose. Schedule 7-General stabilization and reserve funds were reviewed next. Funds in these include the Community Preservation and Enterprise funds and are available for appropriation. The final, Schedule 8 is a summary of the Fogg Library Renovations. All financial activity for Phase I, II and III- Phase III is complete and closed out. The funds include appropriations from stabilization and Community Preservation, state and HUD grants. Auditor Swanson completed the presentation and reported these analyses will be updated on a quarterly basis.

President Mathews asked that the auditor ensure that during budget season review of the specific departments, that funds received from the base are incorporated.

Councilor Lacey recapped; there is \$5 million available in the Water & Sewer Enterprise funds, \$3 million in the Reserve fund and \$10 million in Free Cash Water & Sewer Enterprise.

Councilor Hackett noted some of the tracking will get easier over the next 1-2 fiscal years. Host Community Agreement and service agreement funds both now come into the same bucket. With the supplementary budget this year, they are now separating the funds. They will be able to clearly see and differentiate what comes in.

CFO McKinney followed up for Councilor Lacey on Schedule 2- Water & Sewer mitigation payments received are loaded into excess revenue and are shown on the total in the free cash analysis, Schedule 6. They are not additional.

Councilor Harrington asked the auditor if there are sufficient funds to address the \$10 million unfunded retiree debt obligations? Auditor Swanson responded that it is up to the Mayor to present measures for what she might have in mind for those funds. \$7 million is available. President Mathews noted it is not within the auditor's purview to make these decisions. His function is to audit, not to make measure recommendations. Councilor Harrington responded that it appears that there are funds that could be available to address, but not enough to address the needs of restoring police and fire personnel, open stations or maintain town fields. Councilor Lacey made a point of order that Councilor Harrington is referring to three items that have been referred to subcommittee for deliberation and is inappropriate for this discussion. President Mathews asked that Councilor Harrington summarize his opinion, and noted it is not fair to put the auditor in this position. Councilor Harrington concluded that he did not want the public to be left with the impression that there were sufficient funds available to meet the town's unfunded liabilities when there may be revenue shortfalls. Councilor Lacey responded that he did not want the public to be fearful of revenue shortfalls when there are funds-approximately \$15 million in the bank, and it is not fair to throw the unfunded liability into this discussion.



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

### **13 010-Special Purpose Stabilization Fund –Legion Field Design and Construction Plans**

CFO McKinney requested on behalf of the Mayor that the town of Weymouth raise and appropriate the sum of \$300,000 from the Special Purpose Stabilization Fund for Capital Projects for the purpose of funding the costs associated with the preparation of the design and construction plans for the renovation of Legion Field.

A motion was made by Vice President O'Connor to refer item 13 010-Special Purpose Stabilization Fund-Legion Field Design and Construction Plans, to the Budget/Management Committee and was seconded by Councilor Smart. Councilor Molisse asked that it be revised to include a referral jointly to Budget/Management and Parks & Recreation Committees.

Vice President O'Connor withdrew his Motion.

An amended motion was made by Vice President O'Connor to refer item 13 010-Special Purpose Stabilization Fund-Legion Field Design and Construction Plans to the Budget/Management and Parks & Recreation Committees and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

### **13 012-Statement of Interest-Chapman School-action requested under 2-9 (b)**

CFO McKinney requested on behalf of the Mayor:

“Resolved: Having convened in an open meeting on Monday, February 4, 2013, the Town Council of Weymouth, in accordance with the town charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest (SOI) by the deadline date of April 10, 2013 for the Chapman School located at 1051 Commercial Street which describes and explains the following deficiencies and the priority category for which Weymouth may be invited to apply to the Massachusetts School Building Authority in the future.

Submitting an SOI is the critical first step in the MSBA's school construction program. It allows a district to inform the Authority about deficiencies that may exist in a school facility. If we receive an invitation into the Eligibility Period by MSBA, the district will be seeking funding for a Feasibility Study to replace or renovate the Chapman School which was built in 1961. Replacement or renovation would improve efficiency, reduce utility costs, insure non-interrupted service, and extend the useful life of the building. The project is identified as a priority, categorized by the School Building Authority as any replacement, renovation, or modernization of school facility systems, such as roofs, windows, boilers, heating pipes, and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility, the removal of hazardous materials

and coatings inside and outside of the Chapman building. The district is seeking funding for a feasibility study.

It is hereby further specifically acknowledged that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits to the Town of Weymouth to filing an application for funding with the Massachusetts School Building Authority.”

A motion was made by Vice President O’Connor to consider item 13 012-Special Purpose Stabilization Fund under 2-9 (b), same night action, and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

President Mathews noted attached to the measure is a memo to the Mayor from School Superintendent Kenneth Salim dated January 30,2013, requesting consideration of the authorization. Dr. Salim was present and offered no additional comment.

A motion was made by Vice President O’Connor to approve item 13 012-Special Purpose Stabilization Fund under 2-9 (b), same night action, and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

## **REPORTS OF COMMITTEES**

### **Budget/Management Committee-Chairman Kenneth DiFazio**

#### **13 001-Creation of Harbormaster Revolving Account**

Councilor DiFazio reported that this measure was referred to the committee on January 7, 2013. The committee met, deliberated, and voted to forward to the full Town Council with a unanimous recommendation for favorable action. A public hearing was held on February 4, 2013.

On behalf of the Budget/Management Committee, a motion was made by Councilor DiFazio that the Town of Weymouth authorizes the creation of the following revolving account in accord with Massachusetts General Laws chapter 44, §53E1/2 for Fiscal Year 2013. Furthermore, that this revolving account is permitted to accept funds in the aggregate to the limit set forth below and expend those funds in the aggregate to the limit herein expressed with the consent of the Mayor. This revenue source was not used in computing the most recent tax levy.

Fund Name	Limit to Accept	Limit to Expend
Harbormaster	\$40,000	\$40,000

The motion was seconded by Vice President O’Connor. There was a brief discussion of the rates; Councilor Conlon asked if whether they are considered reasonable, and the number of officers to man the details. Councilor Conlon asked if there is a contract with

MassDOT for these services. Capt. Comperchio responded to the questions. Councilor Conlon noted his questioning was for the purpose of determining that no on-duty officers would be deferred to these details. UNANIMOUSLY VOTED.

**13 002-Process to Contract for Independent Audit**

Councilor DiFazio reported that this item was referred to the Budget/Management Committee on January 21, 2013. The committee met on February 4, 2013 and voted to continue the matter to a future time.

**13007-Police Department Line Item Transfer**

Councilor DiFazio reported that this item was referred to the Budget/Management Committee on January 21, 2013. The Committee met on February 4, 2013 and voted to forward to the full Town Council with a recommendation for favorable action.

On behalf of the Budget/Management Committee, a motion was made by Councilor DiFazio that the Town of Weymouth transfers the sum of \$390,000 from the following line items:

Dept.	Salary	Overtime	Amount
Uniform	13104120-510001	13104220-513001	\$350,000
Admin.	13104105-510001	13104205-513001	\$5,000
Traffic	13104135-510001	13104235-513001	\$15,000
Investigation	13104150-510001	13104250-513001	\$20,000
Total			\$390,000

The motion was seconded by Vice President O'Connor. UNANIMOUSLY VOTED.

**Ordinance Committee-Chairman Michael Smart**

**13 005-Police and Fire Departments Acceptance of MGL Chapter 31, Section 58A-Maximum Age Restrictions**

Councilor Smart reported that this item was referred to the Ordinance Committee on January 22, 2013. The committee met on February 4, 2013 with the police captains and the fire chief, Human Resources Director and George Lane, Town Solicitor. Councilor Smart invited Solicitor Lane to provide a brief explanation. Solicitor Lane reported that it is a local acceptance of a general law, concerning the age eligibility of fire fighters and police officers. If accepted, under this section, no person shall be eligible to have his name certified for original appointment for the position of fire fighter or police officer if such person has reached his thirty-second birthday on the date of the entrance examination. Any veteran shall be allowed to exceed the maximum age provision of this section by the number of years served on active military duty, but in no case shall said candidate for appointment be accredited more than four years of active military duty. By local acceptance, what it means is that by vote of Town Council as legislative body, subject to the charter, which includes the approval of the Mayor, then the matter becomes an acceptance of a general law and goes on the books. In 2004, there was a constitutional

challenge to this particular statute, and at that time the federal court said that that statute was “rationally related to legitimate state interest of encouraging long-term commitment to police forces” and fire fighters, “ensuring physical fitness of the officers and reducing strain on a pension system.” Solicitor Lane noted earlier in the evening at the committee level, this position was reinforced by the police captain, fire chief and the HR director. He asked again that the inquiry again be directed to them for address. President Mathews agreed and Chief Davis and Capt. Comperchio and Michael Coughlin returned to the table. Chief Davis noted that the measure will allow younger veterans the chance at the job, and with the chance to earn a full retirement. Candidates taken over the maximum age do not have that opportunity. The current pension number is 32 years service at age 57. The fire department needs a balance of mixed ages. For years the department couldn’t hire because of budget constraints. The average age of firefighters was 50. When candidates were hired, it resulted in a force of senior people and young candidates. The older officers retired within a short time and left the department devastated. There must be a balance, and it requires hiring younger candidates. The senior officers will teach the younger ones and is important to the balance of the department. Michael Coughlin reported that this supports some of the physical demands and the long period of training required by each of the departments. The age restriction is fairly moderate and thirty other cities and towns have adopted this statute, and he urged support. Capt. Comperchio noted this is a young man’s job. The physical constraints and the hours of work supports the hiring of younger people.

Vice President O’Connor reported that he did not attend the committee meeting, but reviewed MGL and asked if this statute affects only Civil Service entrance requirements and not existing positions or transfers from other cities/towns. He has been an advocate of hiring people who love this town, and believes this will work towards achieving the goal of a strong community minded police and fire force.

Councilor Harrington asked if there is a mandatory age for retirement for police and fire. The response was yes- age 65. He then asked if any analysis has been done regarding increased pension liabilities by hiring younger people who will be contributing for longer periods. Chief Davis responded that the state did a study. His opinion is that it would be beneficial to hire a younger candidate who will pay into the system over several years; earning their own pension. CFO McKinney noted that employees hired recently are contributing at a higher rate. Councilor Conlon asked what the current law is- is there an age restriction for entrants? The response was no. Councilor Conlon then noted that a candidate would be subject to the physical fitness requirements so that once graduated from the academy he would be considered physically fit, regardless of age. He knows of several older officers who worked out well for Boston. He does not feel that veterans should be restricted by age from entering the force. He is not in favor of the statute; that it will negatively affect veterans. Councilor Burke noted that it is not the date that they take the exam that is measured, but the date at which they are appointed. Councilor Conlon also noted that hiring an older worker would require less money contributing to the retirement system. Chief Davis responded that they have had younger members go out injured.

Councilor Smart concluded that the measure was deliberated and the committee voted unanimously to forward to the full Town Council with a recommendation for favorable action. On behalf of the Ordinance Committee, a motion was made by Councilor Smart that the Town of Weymouth, by Town Council, with the approval of the Mayor, accept Massachusetts General Laws, Chapter 31, §58A, providing for maximum age restrictions for original appointments to municipal police officer and fire fighter positions, and was seconded by Vice President O'Connor. Vote Passed 9-2 (Councilor Conlon-NO; Councilor Lacey-NO)

### **Overall Zoning Plans-Design Regulations/guidelines as adopted by the Zoning Board of Appeals**

Councilor Smart noted this is not a measure, but something that Councilor Hackett has been working on with the administration. James Clarke, Planning Director, was invited to the table to review what the Zoning Board of Appeals adopted on 1/9/13 after several months of review. Mr. Clarke provided the Council with a copy of the Design Guidelines. He noted that both Councilors Smart and Hackett had some concerns particularly around the design of Columbian Square and the area along Route 18. The Design Guidelines were prepared several years ago as part of an overall look at the zoning and they have been used internally at staff level. Based on discussion with the Ordinance Committee, he felt it appropriate to give them a wider review through the Zoning Board of Appeals and have them adopted as part of their Rules and Regulations. The intent is to have it available and get it on to the website so that citizens can be aware of the types of guidelines and the way they'd like to see the community, either new buildings or renovations, retail, commercial, office and residential, particularly multifamily. This does not pertain to single-family areas. The idea is to make the public, and architects or developers know what is expected, so that they have an idea before submitting plans what is expected. Then it can be reviewed by BZA if special permitting is required. Hopefully by the time it gets to them, a plan will have already gone through these iterations and will have a good product. He also mentioned that there is no perfect design or layout and property owners have rights but the guidelines are based on many other communities. The guidelines are broken down by village center and comments on commercial areas and Routes 18, 53 and 3A. He reviewed what is included in the guidelines.

Councilor Smart acknowledged the hard work by Councilor Hackett, Jim Clarke and the BZA. Councilor Hackett thanked the Mayor, and the BZA for adopting; it was the next logical step after creation of the Master Plan, and it's important for the town to be able to show developers what is acceptable. Councilor Conlon noted the plan is proactive and a wonderful tool for developers and contractors and gives them a level playing field.

Councilor Smart noted this is not before the Council for a formal vote for an ordinance change. They are comfortable with them not as part of the Code of Ordinances, but addendum to the Rules and Regulations of the Board of Zoning Appeal. Councilor Hackett noted they will look at overall zoning to implement what was done in Weymouth Landing to the commercial corridors. Councilor Lacey asked how the administration will approach enforcement. Mr. Clarke responded that when a permit is granted, the Building Department will sign off, if there is a special permit or variance granted as part of the

process, the Planning Department also signs off on a project. Councilor Hackett had Mr. Clarke review the process of the levels of enforcement for maintaining a property, such as enforcement of special conditions. Some of it will be caught at the permit process. Yearly licensing will also catch any infractions.

## **NEW BUSINESS**

### **13 009-Fiscal Year 2012 Financial Statements and Management Letter-Richard Swanson/Town Auditor**

Auditor Swanson reported that the Financial Statements from Melanson & Heath were distributed. Representatives from Melanson & Heath will be at the Town Council Meeting on February 19, 2013 to present their findings. He requested a referral to Budget/Management for the meeting on February 19, 2013.

A motion was made by Vice President O'Connor to refer item 13 009 to the Budget/Management Committee and was seconded by Councilor Smart. President Mathews reported that the date was confirmed with Mr. Biron of Melanson & Heath and he will be present that evening. UNANIMOUSLY VOTED.

### **13 011-Proposed Zoning Amendment-Moratorium on Medical Marijuana Treatment Centers-Councilor Patrick O'Connor/Councilor Michael Smart**

That the Town of Weymouth Zoning Ordinance be amended as follows:

- A. Amend the Table of Contents by adding:  
Article XXVIII

Moratorium – Medical Marijuana Treatment Centers

- B. Amend the Zoning Ordinance text by adding the following as Article XXVIII:

Article XXVIII  
Moratorium – Medical Marijuana Treatment Centers

#### 120-130. Purpose

The Massachusetts Medical Marijuana Initiative, also known as Ballot Question Three, was approved by voters at the Massachusetts State election on November 6, 2012. The law regulates the cultivation, distribution, possession, and use of marijuana for medical purposes. The law is effective on January 1, 2013 and the State Department of Public Health is directed to promulgate regulations regarding implementation of the law within 120 days after the law's effective date.

Under the current Zoning Ordinance, a medical marijuana treatment center is not defined and is not a permitted use in the Town. The Department of Public Health regulations should provide guidance to communities regulating medical marijuana treatment centers at the local level. As this is a new type of land use in the state, there will be unique and

new aspects to the use that could require oversight and regulations. These local impacts, which could be legal, land use, public safety, and public health, should be evaluated and addressed in a comprehensive manner in the Zoning Ordinance prior to the permitting of a medical marijuana treatment center. The moratorium, of a finite duration, will allow the town to carefully study the potential impacts, both primary and secondary, of such centers and, through a directed planning process, recommend zoning ordinance amendments to address the Town's concerns in the context of the Master Plan and other Town planning goals and objectives.

#### 120-131. Definition

“Medical Marijuana Treatment Center” shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oil or ointments), transfer, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.”

#### 120.132. Establishment and Duration

A. No building permit, special permit, variance, site plan or other permit may be issued under this zoning ordinance, and no use of land or structures shall be allowed for the purpose of establishing a medical marijuana treatment center or associated activities.

B. The moratorium shall be in effect through and including May 1, 2014, or until such time as zoning amendments are adopted that address medical marijuana treatment centers and associated activities, whichever shall be sooner.

#### 120-133. Applicability

This Article shall be effective in all zoning districts in the town, including overlay districts.

This measure requires a legal notice and a public hearing and a 2/3 vote.

Vice President O'Connor reviewed the background. Before Massachusetts' voters passed Ballot Question 3 at the November 6, 2012 election, he began researching what this could mean to the community. The language in the question called for medical marijuana dispensaries. The language was vague and regulations have not been set. Regulations are due May 1, 2013 from the Department of Public Health. To give the towns time and peace of mind, Vice President O'Connor reviewed what options might be available through the zoning ordinances-specific zoning similar to adult entertainment zoning done in the 1990's and looked at what was happening on Beacon Hill. It's chaos. There are 30-40 different bills from 30 different reps and senators trying to figure out how to protect the sense of community. There will be a lot of discussion; the original plans from DPH will probably be changed multiple times within a short period of time. In order to protect

the community, which has been a theme of this Council, requires a moratorium to May 1, 2014. The town has SSH, a cancer center, is a part of Norfolk County close to Boston and the town is vulnerable. When this first happened he and Councilor Smart reviewed the zoning changes. They have discussed with the Mayor, who would like the town to be proactive. He concluded that many other communities are taking the same stance.

A motion was made by Vice President O'Connor to refer item 13 011 to the Ordinance Committee and was seconded by Councilor Smart. Councilor Smart concurred with Vice President O'Connor's remarks. UNANIMOUSLY VOTED.

## **ADJOURNMENT**

The next Town Council Meeting has been scheduled for Tuesday, February 12, 2012, due to the Presidents' Day holiday. At 9:31 PM; there being no further business, a MOTION was made by Vice President O'Connor to adjourn the meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Arthur Mathews, Council President