

WEYMOUTH TOWN COUNCIL  
RECORD OF MINUTES AND PROCEEDINGS  
Town Council Chambers  
February 22, 2011

The Town Council of the Town of Weymouth held a public meeting on Tuesday, February 22, 2011 at 7:30 P.M. at Town Hall Council Chambers, 75 Middle Street, Weymouth, Massachusetts.

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

Also Present: George Lane, Town Solicitor  
Richard Swanson, Town Auditor  
Franklin Fryer, Town Clerk  
Michael Gallagher, Director of Administrative Services  
Scott Bois, Coordinator of Financial Services

Council President Mathew called the meeting to order at 7:33 p.m.

Following the Pledge of Allegiance, Town Clerk Franklin Fryer conducted roll call with all members present.

**ANNOUNCEMENTS**

Councilor Conlon announced a meeting scheduled for Thursday, February 24, 2011 at 7:00 p.m. located at the Tufts Library, 46 Broad Street, Weymouth. The advocates for Rockland, Abington, Hingham and Weymouth are holding a public meeting to discuss the re-use of the former South Weymouth Naval Air Station

**OLD BUSINESS**

**Minutes**

A Motion to accept the Town Council Minutes of February 7, 2011 was made by Vice President O'Connor, seconded by Councilor Smart, and voted unanimously.

## **RESIDENT AND COMMUNITY COMMENT**

### **Proposed Ordinance Revisions Regarding Snow Removal**

Weymouth resident Linda MacDonald of 58 Laurel Street appeared before the Council to present two proposals:

*1.) Proposed ordinance requiring anyone, or any business, that wishes to plow snow in the Town of Weymouth be required to obtain a license from the Police Department.*

*This license will be required whether the business or individual is removing snow on town owned land or roads, private property, commercial property or the property of tax-exempt institutions. It will also be required regardless of whether the individual or business is plowing for profit or not.*

*In order that residents will know that a plow operator has obtained the license, a sticker will be issued to each vehicle covered under the license and affixed in a manner that allows it to be visible.*

*2.) Proposed ordinance requiring all Town (including School) employees engaged in snow removal be required to receive training in the ordinances covering snow removal and rules regarding pedestrian and handicapped accessibility. This includes town employees who operate snow removal machinery and those whose job includes shoveling snow. This training will also include instruction in methods of snow removal that minimize property damage.*

*Each employee will be required to sign-off that they have received the appropriate training and the list of trained employees, as well as the content of the training, presented to the Mayor, Superintendent of Schools, and the President of the Town Council by November 15<sup>th</sup> of each year in order to verify that employees have received the appropriate training from their supervisor.*

*The list will also include a notation of the employees who have Hoisting Licenses and/or other special licenses and are therefore, allowed to operate machinery used in snow removal that is included in the Massachusetts Regulations 520 CMR 6.00 for hoisting machinery.*

Mrs. MacDonald's presentation was outlined as:

- Description of the Current Situation/Problem
- Intent of the Ordinance
- Description of How the Intent Is Achieved
- Deadlines/Time Constraints
- Supplemental Materials

She addressed the Council highlighting each topic and provided copies of same.

President Mathews stated that the matter would be taken under advisement.

**PUBLIC HEARINGS**

**11 010 Sewer Retained Earnings - Vactor Truck**

A motion was made by Vice President O'Connor to open the public hearing noting that it had been published on February 11, 2011. The motion was seconded by Councilor Smart and voted unanimously.

David Tower and Michael Chaisson presented the request for use of retained earnings for the purpose of purchasing a new vactor truck. Mr. Tower noted 1.6 million dollars available in retained earnings which, historically in the department, had been utilized for small capital procurements of this nature. This truck is one of the department's main pieces of equipment for clearing sewer lines and preventing blockages in residences. The current piece of equipment is ten years old, becoming problematic, and requiring an upgrade.

With no comments from the public, a motion to close the public hearing was made by Vice President O'Connor, seconded by Councilor Smart, and voted unanimously.

**11 011 Appropriation Request for Police Patrolman's Union Contract Settlement**

A motion was made by Vice President O'Connor to open the public hearing noting that it had been published on February 11, 2011. The motion was seconded by Councilor Smart and voted unanimously.

Michael Gallagher and Captain Comperchio presented, on behalf of the Mayor, a request for an appropriation from free cash in the amount of \$473,858 to fund the retroactive portion of the collective bargaining agreement entered into between the Town of Weymouth and the Police Patrolman's Union, Massachusetts Coalition of Police, Local 378 AFL-CIO. Mr. Gallagher stated the agreement spans three years covering fiscal years 2008, 2009, 2010. The financial impact is 0% for FY2008, 0% for FY2009, and 6% for FY2010. The retroactive portion of which the Mayor seeks funding covers all of FY2010 and the first six months of FY2011. Mr. Gallagher noted, as background for the Council's consideration, when Mayor Kay took office in January 2008, all but one collective bargaining agreement with the various unions on the town side of government had expired June 30, 2007. Negotiations were well underway before the Mayor took office. These were put on hold after the elections until the current administration was well in place. Mr. Gallagher pointed out that the economy continued to erode as the process unfolded. "Local aid was cut by the Governor using his 9C powers midway through FY2008, Free Cash was certified at \$181,000, and the Town was in serious financial difficulty. As such, the Mayor felt it prudent to exercise the Town's rights under the current fiscal constraints to back off the majority of concessions that were already on the table and to focus on the financial impact items only. As we forged ahead, it became apparent to both sides that a settlement would be difficult. In late 2008, we entered into mediation sessions with the Joint Labor Management Committee. As those negotiations wore on, the economy continued its freefall and the financial picture of the Town became more in question. In early 2009, the mediation sessions broke down and both sides agreed to submit to the next step in the process - binding arbitration. In the

interim, the town was at the same point with the firefighter union negotiations. Their case was taken up ahead of the Police contract by the JLMC. As you are aware with the Arbitrator ruling in June 2010, the Firefighters would receive a contract for the same three year period as this contract, 0% for FY2008, 0% for FY2009, and 6% for FY2010 effective July 1, 2009.” On October 18, 2010, a hearing was held at the JLMC offices in Boston. “It became apparent to the Mayor that the agreement in place with the Firefighter union would weigh heavily in the decision rendered by an Arbitrator.” After meeting with representatives from the patrol union and some non-financial language changes requested by both sides, they came to the agreement before Council. The remainder of the impact to FY2011 will be managed within the Police Department budget. Mr. Gallagher assured the Council that the “agreement would not require any layoffs within the department as the Police Chief was an active participant in the negotiations and has managed his budget with a potential settlement in mind. The FY2012 impact will be discussed in the coming months as they move forward with the Mayor’s budget submittal.”

Councilor DiFazio stated that he was glad that they had reached an agreement and spoke about questions he had asked during Budget /Management Committee that he felt were pertinent for them to be understood at the Council level as well. He explained that they needed to look at the FY11 and FY12 impact. It appeared to him that the Chief had budgeted, in FY11, monies in the salary line item for five positions that were never filled and is using that money to pay for half of the increase for this year. The Council would then need to come up with the other half from free cash, or whatever other source, to pay for the remainder of the current year. Councilor DiFazio asked if the Chief was planning the same thing for FY12, of having five, unfilled but budgeted for, positions to use for the FY12 contract impact.

Mr. Gallagher replied that they had discussed at Budget/ Management that as they go through the FY12 budget process, they would see what the Chief’s plans will be. He added that he was unsure what the Chief or Mayor’s intent was adding that he had not seen that budget.

Councilor DiFazio was concerned that the Mayor would require each department to have a level budget for next year, money-wise not service-wise, which would have an impact to the Police Department.

Mr. Gallagher responded that that was not the current direction that they had been charged with, as department heads.

Councilor DiFazio commented that that was good news which differed from the Fire Department’s resulting layoffs.

Captain Comperchio stated that he had sat with the Chief today and had discussed these issues. He shared that it was the Chief’s intent to fill existing and expected vacancies for FY12, but how many was undetermined. During FY12 budget proposal discussions, they will see what the economic impact will be at that time.

Weymouth resident, Linda MacDonald asked, “Are Quinn Bill pay incentives added to the base salary and then the raise computed on top of that whole salary then, so if you have a base salary

of sixty and a pay incentive of fifteen thousand on top of that, is the raise computed on seventy five or sixty?"

Mr. Gallagher answered that the increase, that's currently in place, is a percentage on the base salary for each of the employees within that bargaining unit.

With no further comments, a motion to close the public hearing was made by Vice President O'Connor, seconded by Councilor Smart, and voted unanimously.

### **11 012 Water Retained Earnings - Essex Street Water Tank**

A motion was made by Vice President O'Connor to open the public hearing noting that it had been published on February 11, 2011. The motion was seconded by Councilor Smart and voted unanimously.

David Tower presented the measure on behalf of the Water Enterprise Fund. They are seeking the request of \$750,000 from retained earnings for the purposes of repairing and painting the Essex Street tank. Mr. Tower informed the Council that, prior to this submittal; the water retained earnings' balance was about 2.8 million dollars. The funds are earmarked strictly for the rehabilitation and preventative measures to the tank which was built in 1990. Located near the soccer field, Mr. Tower advised that anyone can tell the tank is in desperate need of paint and repair work. The purpose of repairing it is to get the pitted metal cleaned down and painted over to prevent any further rust or other problems with the tank structure.

Mr. Chaisson added, in response to Councilor Smart's previous inquiry about lead testing, that a sample had been sent out to a lab that week with results available soon.

President Mathews asked Mr. Chaisson to review a previous discussion regarding outreach to the surrounding neighborhood.

Mr. Chaisson responded that he had met with the Mayor earlier about having a neighborhood meeting similar to what had been done with the Reed Avenue tank to go over the project with regards to paint color, noise in the morning from sandblasting, and painting in the afternoon. They also contacted the people that run the soccer fields to provide them information. As a precaution, they spoke about possibly shutting down one of the fields closest to it, but that it was not really needed. 2008 was the last time an inspection of the tank was performed and at that time, the need for painting was evident, especially the tank's interior. It was put off to do Reed Avenue but it definitely needs to be completed this year.

Councilor Lacey agreed that it was in dire need and appreciated the priority. He asked Mr. Chaisson to address their plans for mitigating the sandblasting or the controls in place as the tower is very close to some homes in a condensed neighborhood.

Mr. Chaisson replied that the tank will be shrouded during sandblasting with positive pressure to keep everything inside. They do not believe that there's lead paint but if it happened to be

indicated, monitoring would be done.

Councilor Lacey asked the length of time anticipated for the project and informed Mr. Chaisson that a resident had previously expressed a concern about past requests regarding a light atop the tower not functioning.

Mr. Chaisson replied that the light bulb had been changed recently and that the Reed Avenue project took about six weeks. The Essex Street project may take a bit more time due to the shape of the tank. He believed the work would take a maximum of eight weeks and that they would try to have it done as quick as possible as the tank would be out of service. The work would be probably done this fall or possibly this spring depending on how quickly they can get it designed and out to bid.

Councilor Molisse, following up from a previous Budget Management meeting, asked Mr. Chaisson if he had reached out to the President's Hill Association president. Mr. Chaisson responded that he had not.

Councilor Smart asked if the residents serviced by the tank would experience an interruption of service with a drop in water pressure.

Mr. Chaisson said that they may see a drop in their water pressure but that typically, homes closest to the tank don't see an additional pressure because they are already so high that they don't get the benefit that the lower areas get of higher pressure. He stated that they may not see a huge change but it is possible.

Councilor Smart, referring to the flaking and scaling going on inside the tank, asked if Mr. Chaisson anticipated any panels needing replacement.

Mr. Chaisson replied that he did not.

With no further comments, a motion to close the public hearing was made by Vice President O'Connor, seconded by Councilor Smart, and voted unanimously.

### **11 013 Appropriation Request Police Superior Officers' Contract Settlement**

A motion was made by Vice President O'Connor to open the public hearing noting that it had been published on February 11, 2011. The motion was seconded by Councilor Smart and voted unanimously.

Mr. Gallagher and Chief Grimes presented, on behalf of the Mayor, a request for an appropriation from free cash in the amount of \$206,807 to fund the retroactive portion of a collective bargaining agreement entered into between the Town of Weymouth and the Police Superior Officers' Union New England Police Benevolent Association Local 85.

Mr. Gallagher expressed that the agreement in question, like the patrol contract previously

discussed, spanned the same time period and the same percentages. The retroactive portion of which the Mayor seeks funding covers all of FY2010 and the first six months of FY2011.

Mr. Gallagher said, "This contract is unique in that it does currently stand on its own. Ranked officers within this bargaining unit are compensated at rates that are driven by a step within the patrol contract. This is not new to this agreement and has been in place for a number of years. That said, it was a fait accompli with a settlement of the patrol contract. There were, however, some language changes that both sides requested that have no financial impact. These were negotiated and added to the Memorandum of Agreement that you have before you this evening. As with the patrol settlement, the Mayor is requesting an appropriation from free cash to fund only the retroactive portion of this agreement covering all of FY10 and the first six months of the current FY2011, July 1, 2009 through December 31, 2010. The remainder of the impact for FY11 will be managed within the Police Department budget. Again, this agreement will not result in any layoffs within the department as the Police Chief was an active participant in these negotiations as well and has managed his budget with a potential settlement in mind. The FY12 impact, as with the patrol agreement, will be discussed in the coming months as we move forward with the Mayor's budget submittal."

With no comments from the public, a motion to close the public hearing was made by Vice President O'Connor, seconded by Councilor Smart, and voted unanimously.

## **REPORTS OF COMMITTEES**

### **Budget Management Committee - Chairman Kenneth DiFazio** **11 007 Appointment of Director of Municipal Finance - William McKinney**

Councilor DiFazio reported that this item had been referred to the Budget/ Management Committee on February 7, 2011. The committee met on February 14, 2011 and voted unanimous favorable action (5-0) for the appointment of Mr. McKinney.

Mr. McKinney introduced himself and shared that he was a graduate of Holy Cross with a degree in Economics and Accounting. He went to work for State Street Bank for several years. They paid for his MBA, at Babson College, concentrating in Finance. Mr. McKinney worked for the State of Massachusetts for a couple of years and then returned to the private sector before coming to Weymouth. For the past four years, Mr. McKinney has been on the Finance Committee for the Town of Dedham. He is excited about the opportunity here in Weymouth.

A motion was made by Councilor DiFazio, on behalf of the Budget/ Management Committee and in accordance with Section 2-10 of the Town Charter, to appoint William McKinney as Director of Municipal Finance. The motion was seconded by Vice President O'Connor and unanimously voted.

### **11 009 Reserve Fund Transfer for Public Works Vehicles**

Councilor DiFazio reported that this item had been referred to the Budget/ Management

Committee on February 7, 2011. The Committee met on February 14, 2011 and voted unanimous favorable action.

A motion was made by Councilor DiFazio, on behalf of the Budget/ Management Committee and in accordance with Section 2-10 of the Town Charter, to submit for the Town Council's consideration, that the Town of Weymouth transfer the sum of \$100,000 from the reserve fund to fund 0002 for the purpose of funding the capital expenses associated with the purchase of two replacement plow trucks for the Department of Public Works. The motion was seconded by Vice President O'Connor.

Councilor Lacey wished to acknowledge the measure before Council "as a start and one that is in desperate need of additional funding for capital investment and equipment in our DPW". It has been discussed for many years and was his opinion that the DPW was "last in the pecking order as it relates to investment in equipment and capital investment". He said it was good to see this measure and hoped that the administration would continue re-investing in equipment that is "desperately needed to be purchased, repaired, and upgraded for the safety and the ability for those men and women to do their jobs".

Councilor Smart stated that at the Budget/Management Committee meeting, he had referenced the base mitigation proposals that had been put forward which included a number of line items that indicated additional equipment for the DPW and asked if "that could be somehow traced so if, and when, that money becomes available from the base then we could use a portion of that to repay ourselves from those retained earnings".

Mr. Gallagher responded that the "request is for a transfer from the reserve fund which is an annual appropriation so even if we kept track of this, there is no way to repay ourselves for this. At the Budget/Management Committee Meeting, there was discussion regarding the significant other issues that we have." He noted large sander trucks that "you can actually see through the floor boards. There is no lack of need anywhere but for as far as reimbursing ourselves, we can't. This is a reserve fund transfer that is a budgeted item every year and at the end of the fiscal year, it's gone."

Motioned passed unanimously.

#### **11 010 Sewer Retained Earnings for a Vactor Truck**

Councilor DiFazio reported that this matter had been referred to the Budget /Management Committee on February 7, 2011. The committee met on February 14, 2011 and voted unanimous favorable action.

A motion was made by Councilor DiFazio, on behalf of the Budget /Management Committee, to submit the measure for the Town Council's consideration, that the Town of Weymouth raise and appropriate the sum of \$325,000 from the Sewer Enterprise Fund Retained Earnings for the purpose of funding the purchase of a new vactor truck and associated equipment. The motion was seconded by Vice President O'Connor.



Councilor Whitaker asked what the plans for the old truck were. Mr. Chaisson replied that they have two old trucks and they will keep one for backup and DPW use for catch basins. The other will be traded in with the purchase of the new vehicle. Councilor Whitaker inquired if that discount was already considered into the price. Mr. Chaisson answered that it did not. He explained that he took the price of the new truck without the trade and that money would go back into retained earnings.

The motion passed unanimously

### **11 012 Water Retained Earnings for Essex Street Water Tank**

Councilor DiFazio reported that this item had been referred to the Budget/ Management Committee on February 7, 2011. The committee met on February 14, 2011 and voted unanimous favorable action.

A motion was made by Councilor DiFazio, on behalf of the Budget/Management Committee to submit the measure for the Town Council's consideration, that the Town of Weymouth raise and appropriate the sum of \$750,000 from the Water Enterprise Fund Retained Earnings for the purpose of funding the costs associated with the painting and repairing of the Essex Street water tank. The motion was seconded by Vice President O'Connor.

Councilor Lacey requested Mr. Chaisson and Mr. Tower to return before them. He apologized for not catching them at the last measure. A comment Councilor Molisse brought up had made him think just to reinforce the sensitivity this work will have to the neighborhood. He said that he knew they were aware of that and "may also be aware of the past history and I'll just call it sensitivity the abutters have and then beyond the abutters because of the closeness of the tower". He requested them to "move it higher on their priority list to have an outreach to the President's Association and include me in any meetings that are pulled together." He stated that he had offered to help "coordinate that with the neighborhood for you to take a lead role with you to help inform, take feedback, and accommodate during that project". Councilor Lacey thanked them for their flexibility and patience.

The motion passed unanimously.

### **11 011 Appropriation Request for Police Patrolman's Union Contract Settlement**

Councilor DiFazio reported that this item had been referred to the Budget/ Management Committee on February 7, 2011. The committee met on February 14, 2011 and voted 4-0 unanimous favorable action with Councilor Molisse recusing himself from the vote.

A motion was made by Councilor DiFazio, on behalf of the Budget /Management Committee, to submit the measure for the Town Council's consideration, that the Town of Weymouth raise and appropriate the sum of \$473,858 from free cash to fund the FY2010 and the first half of FY2011 economic impact of a collective bargaining agreement between the Town of Weymouth and the

Police Patrolman's Union Massachusetts Coalition of Police Local 378 AFL-CIO. Furthermore, that the Town Accountant is authorized to distribute said amount among the various Police salary line items during FY2011. The financial impact for the balance of FY2011, in the amount of \$159,329 will be absorbed through the Police Department salary line items. The motion was seconded by Vice President O'Connor.

Councilor Molisse recused himself from the vote due to family members in the Police Department.

Vice President O'Connor gave kudos to the Police Chief and administration for the long-term planning and budgeting which prevented any layoffs. He thought it was "amazing in this economic climate to give our employees a well deserved pay raise and at the same time prevent any layoffs from happening".

Councilor Lacey echoed the Vice President's compliments to both the Administration and the Police Chief on both measures. He added that they were long overdue, that he was in full support of both, and thanked them for their efforts.

Councilor Whitaker asked what would the balance of free cash be after both measures.

Councilor Whitaker explained that his preference would be to fund the entire contracts out of free cash allowing the Police Department to redo some hiring that has not been filled.

Councilor McDonald reiterated the compliments. He cited the "civil tone and the patience exhibited by the superior officers and the patrolmen's association. Times have been tough and Weymouth has shown great leadership in trying to resolve the differences in an amicable way and looking out for the betterment of the citizens of the town in providing the great public safety work that they do." He applauded both sides of the negotiations.

The motion passes 10 - 0 with one abstention by Councilor Molisse.

### **11 013 Appropriate Request for Police Superior Officers' Contract Settlement**

Councilor DiFazio reported that this item had been referred to the Budget /Management Committee on February 7, 2011. The committee met on February 14, 2011 and voted 4-0 unanimous favorable action with Councilor Molisse recusing himself from the vote.

A motion was made by Councilor DiFazio, on behalf of the Budget/ Management Committee, to submit the measure for the Town Council's consideration, that the Town of Weymouth raise and appropriate the sum of \$206,807 from free cash to fund the FY2010 and the first half of FY2011 economic impact of a collective bargaining agreement between the Town of Weymouth and the Police Superior Officers' Union New England Police Benevolent Association Local 85. Furthermore, that the Town Accountant is authorized to distribute said amount among the various police salary line items during FY2011. The financial impact for the balance of FY2011, in the amount of \$71,128 will be absorbed through the Police Department salary line items. The

motion was seconded by Vice President O'Connor.

Councilor Molisse recused himself from the vote due to a family member in the Police Department.

The motion passed 10 - 0 with 1 abstention from Councilor Molisse

## **NEW BUSINESS**

### **11 014 FY2010 Financial Statements and Management Letter**

Town Auditor Dick Swanson presented the measure for Town Council's consideration. The audit of Fiscal Year 2010 Financial Statements and Management Letter from independent auditors Melanson, Heath and Company. Copies have been distributed to all Councilors, Mayor Kay, and directors within her administration. He requested that Mr. Frank Byron of Melanson, Heath and Company and he be on the agenda for the March 21, 2011 Town Council meeting. Mr. Swanson also requested that the measure be referred to the Budget/Management Committee for the same night prior to the Town Council meeting. At both meetings, they will present an overview of said financial statements and management letter and answer any questions from Councilors.

A motion to refer 11 0014 to the Budget/Management Committee was made by Vice-President O'Connor.

Councilor DiFazio indicated that he had spoken earlier to Mr. Swanson regarding a letter addressed to Mr. Bois from the president of Melanson, Heath and Company. He asked that this letter be reviewed at Budget/Management meeting as well as there were several recommendations in it. Mr. Swanson agreed indicating his desire to review it as well.

Councilor Lacey said that he read that letter and was curious on how they will proceed. He suggested that the administration come prepared to respond to any questions

Mr. Bois clarified that Melanson and Heath can speak to it in more detail that evening but their approach to the audit is to come up with a Management Letter that we respond to. That's the five points he believes that will be in the financials that we provide a management response to. The other letter is strictly viewed in their opinion as recommendations. It is a side letter for management's use to make some improvements within the organization. It's generally not their intention to go forward with that discussed in the meeting, but Dick has forwarded the information and administration will be prepared to discuss it.

President Mathews recommended that Councilor DiFazio have an initial meeting with the Budget/Management Committee prior to Melanson and Heath coming in.

The motion passed unanimously.

**ADJOURNMENT**

At 8:28 p.m. with no further business to attend to, a motion to adjourn was made by Vice President O'Connor, seconded by Councilor Smart and voted unanimously. The next Town Council meeting will be held March 7, 2011 at 7:30 p.m.

Respectfully submitted,

Paula MacLeod  
Recording Secretary

Approved by

Arthur Mathews, President