

**TOWN COUNCIL MINUTES**  
**Town Hall Council Chambers**  
**June 4, 2012-Monday**

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

Not present: Kenneth DiFazio, Councilor

Also Present: William McKinney, Chief Financial Officer  
George Lane, Town Solicitor  
Richard Swanson, Town Auditor  
Kathy Deree, Town Clerk

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 he spoke with Councilor DiFazio who had a prior family commitment.

**ANNOUNCEMENTS**

Councilor Harrington announced a zoning change informational meeting on the Cumberland Farms project which is scheduled for July 11, 2012 at Old South Union Church.

Councilor Conlon announced he will hold constituent hours on June 5, 2012 at 10-11 AM and 3-4 PM at Southfield.

**MINUTES**

Joint Parks and Recreation and Budget/Management Committee Meeting of March 15, 2012

A MOTION was made by Councilor Smart to approve the minutes from the joint Parks and Recreation and Budget/Management Meeting of March 15, 2012 and was seconded by Councilor Hackett. UNANIMOUSLY VOTED.

Ordinance Committee Meeting of May 7, 2012

A MOTION was made by Councilor Smart to approve the minutes from the Ordinance Meeting of May 7, 2012 and was seconded by Councilor Hackett. UNANIMOUSLY VOTED.

Town Council Meeting of May 7, 2012

A MOTION was made by Councilor Smart to approve the minutes from the Town Council Meeting of May 7, 2012 and was seconded by Councilor Hackett. UNANIMOUSLY VOTED.

Budget/Management Committee Meeting of May 10, 2012

A MOTION was made by Councilor Smart to approve the minutes from the Budget/Management Meeting of May 10, 2012 and was seconded by Councilor Hackett. UNANIMOUSLY VOTED.

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

12 099-Fire Department Transfer Request

CFO McKinney, on behalf of the Mayor requested that the Town of Weymouth transfer the sum of \$40,000 from line item Municipal Alarm-Salaries to Fire Suppression-Overtime.

A MOTION was made by Councilor Smart to refer item 12 099 to the Budget/Management Committee and was seconded by Councilor Hackett. UNANIMOUSLY VOTED.

REPORTS OF COMMITTEES

Budget/Management Committee-Vice Chairman O'Connor

12 050-Free Cash Salary Reserve

This item was referred to the Budget/Management Committee on April 17, 2012. The committee met on May 14, 2012, held a public hearing and unanimously 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 Vice President O'Connor to approve item 12 050; that the town of Weymouth raise and appropriate \$150,000 from free cash for the purpose of funding the financial impact of collective any settled bargaining agreements and was seconded by Vice Chairman O'Connor.

Councilor Hackett asked the administration to present the strategy for the request for those not present at the Budget/Management meeting. CFO McKinney reviewed the request to appropriate monies to set aside funds against the impact of anticipation of contracts settlement. Councilor Hackett noted this will preclude the Council from any vote in settling a contract outside of the financial impact. This has been done elsewhere

and is not in violation of collective bargaining. Councilor Lacey asked if it will be a first-come first-served basis. CFO McKinney noted that it is for funding any contracts that settle prior to free cash certification.

VOTE carried 8/1 (Councilor Hackett-NO).

12 051-Free Cash Stabilization Fund

This item was referred to the Budget/Management Committee on April 17, 2012. The committee met on May 14, 2012, held a public hearing and unanimously 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 Vice President O'Connor to approve item 12 051; that the town of Weymouth transfer the sum of \$200,000 to the stabilization fund and was seconded by Vice Chairman O'Connor. UNANIMOUSLY VOTED 9/0.

12 082-Reserve Fund Transfer-Town Clerk Advertising

This item was referred to the Budget/Management Committee on, May 7, 2012. The committee met on May 24, 2012 and unanimously voted to forward to the full Town Council with a recommendation for favorable action and was seconded by Vice Chairman O'Connor.

On behalf of the Budget/Management Committee, a MOTION was made by Councilor DiFazio to approve item 12 082; that the town of Weymouth transfer the sum of \$1500 from the reserve fund to fund the costs associated with advertising increased costs. UNANIMOUSLY VOTED.

NEW BUSINESS

12 098-Rezoning application for 203 Middle Street (Clapp Memorial Building) - application submitted on behalf of Applicant/Davis Clapp, LLC

President Mathews noted that the Council will not take any testimony at this time; only action required at this time is referral to standing committee. A public hearing is tentatively scheduled for June 25, 2012.

A motion was made by Vice President O'Connor to refer item 12 098 to the Ordinance Committee and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

M.G.L. Chapter 40 section 4A, relative to inter-municipal agreements-Councilor Thomas J. Lacey

Councilor Lacey reported that he requested this item be placed on this evening's agenda and supports referral to Ordinance Committee to further investigate Weymouth's compliance with MGL as it pertains to inter-municipal agreements.

A motion was made by Councilor Lacey to refer item 12 098 to the Ordinance Committee and was seconded by Vice President O'Connor. Solicitor Lane requested that

he be invited to the discussion and the opportunity to do more research on the subject.  
UNANIMOUSLY VOTED.

Replacement for District One Town Councilor –Pursuant to Section 2-11(c) of  
Weymouth Town Charter-Council President Arthur Mathews

President Mathews noted correspondence between him and Solicitor Lane on this item.

Council President Mathews read the following correspondence to Solicitor Lane into the record:

*“I am writing in regards to your legal opinion, as it relates to the process of filling the District 1 Town Council seat, due to the resignation of Victor Pap, which was effective on 21 May 2012 (see attached).*

*In an effort to ensure that the residents of district 1 have timely representation, I have spoken with Kathy Deree, Town Clerk, who has been in contact with the Secretary of State’s Office, to inform them of the vacancy and process which is outlined in the charter to fill the vacancy. Section 2-11(b), of the Weymouth town charter outlines the replacement process “If a vacancy shall occur in the office of district councilor it shall be filled in the same manner as provided in section 2-11(a) for the office of councilor-at-large except that the list shall be of the candidates for the office of district councilor in the district in which the vacancy occurs, provided however, if there be no candidate on such list who remains eligible and willing to serve the next highest ranking candidate from among the candidates for election to the council at large who is a resident of the district in which the vacancy exists shall be certified and shall serve until the next regular election provided such candidate remains a resident of the district.” As Councilor Pap ran unopposed in the district 1 race, the next highest ranking candidate from the pool of candidates for election to councilor- at- large is Ted Miller. Kathy Deree, Town Clerk, has informed me that Mr. Miller has relocated to another town, and is no longer a resident of Weymouth.*

*Furthermore, section 2-11(c) states the following: “Whenever a vacancy shall occur in the office of councilor- at- large or in that of district councilor and there is no available candidate to fill such vacancy in the manner provided in section 2-11(a) or (b), the vacancy shall be filled by the remaining members of the town council. Persons elected to fill a vacancy by the town council shall serve only until the next regular election at which time the vacancy shall be filled by the voters and the person chosen to fill such vacancy shall forthwith be sworn and shall serve for the remainder of the unexpired term in addition to the term for which elected. Persons serving as town councilors under this section shall not be entitled to have the words “candidate for re-election” printed against their names on the election ballot.”*

*It is my intent to move forward with filling the vacancy of the district 1 councilor at our next Town Council meeting, scheduled for 4 June 2012, with inclusion on that evening’s agenda. The Town Council will nominate and elect a replacement for the remainder of the district 1 term, of which the candidate must be a registered voter in the town and reside in district 1.*

*Town Council Rules and Regulations, number 54 states: "The Council shall be governed by "Robert's Rules of Order Revised" in all questions of parliamentary practice not provided for by special rules or orders." To this end, I will proceed to adhere to Robert's Rules as it relates to the nomination/election process for replacement of district 1 councilor. Additionally, my intended process is also consistent with section 2-2(a) and 2-2(c), as it relates to election of Town Council President and Vice President, and states the following "as soon as practicable after the councilors-elect have been qualified following each biennial election, as provided in section 8-10, the members of the town council shall elect from among its members a council president who shall serve during the current term of office."*

*Therefore, pursuant to section 3-330 of the code of ordinances which states "The Town Solicitor shall furnish all legal advice to the Mayor, Town Council, and all elected or appointed Town Officers, Departments, Boards and Committees pertaining to the discharge of their official duties." I am requesting that you provide me with your written, legal opinion regarding my intended process as described above. It is my intent to submit your written, legal opinion to the Town Clerk and Secretary of State's Office for their confirmation.*

*Should you have further questions, please contact me. I look forward to your response such that the Town Council may move forward with this matter, in conjunction with the Town Clerk and Secretary of State's Office."*

And the response from Solicitor Lane was read into the record:

*"In accordance with our discussion and in a memo dated May 24, 2012, regarding the legality of the above-referenced process for the District 1 council vacancy, I've reviewed the process contained in the memorandum and concur with the process and conclusion contained therein."*

A motion was made by Vice President O'Connor to OPEN the nominations for town councilor to fill the seat vacated by Victor Pap, III., and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

A Motion was made by Vice President O'Connor to NOMINATE Francis Burke and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

A motion was made by Vice President O'Connor to CLOSE the nominations and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

A motion was made by Vice President O'Connor, that the Town of Weymouth, under section 2-11 of the Charter APPOINTS Francis Burke of 93 Bluff Road to fill the vacancy for District 1 Town Councilor and was seconded by Councilor Smart. Vice President O'Connor and Councilors Hackett both voiced their support.

A ROLL CALL vote was taken: Councilor Conlon-YES, Councilor Hackett-Yes, Councilor Harrington-YES, Councilor Lacey-YES, Councilor McDonald-YES,

Councilor Molisse-YES, Councilor Smart-YES, Vice President O'Connor-YES, President Mathews-YES; UNANIMOUSLY VOTED. President Mathews requested that the Town Clerk swear Mr. Burke in at the earliest convenience.

#### ADJOURNMENT

The next Town Council Meeting will be held on Monday, June 11, 2012 at 7:00 PM and is a Special Town Council Meeting. At 7:58 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 Council President Arthur Mathews