

**SPECIAL TOWN COUNCIL MEETING  
Town Hall Council Chambers  
July 16, 2012-Monday**

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

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 all members present.

**ANNOUNCEMENTS**

Councilor Burke announced he will hold constituent hours on the second Thursday of the month from 12-3 PM and 6-8PM at the McCulloch building, 182 Green Street.

Councilor Conlon announced that he took advantage of the e-reader free downloading service provided by the libraries. He recommended this service to the public.

Council President Mathews announced that the paving of Washington/Middle Streets is to be conducted over the next few days. Residents are advised to seek alternate routes. The roadway will be grinded in preparation for paving. Temporary markings will be painted on Friday. The project by MassDOT is currently on schedule and targeted for completion by August 27, 2012.

**MINUTES**

**Education Committee Meeting of February 28, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Education Committee Meeting of February 28, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Budget/Management Committee Meeting of April 23, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Budget/Management Committee Meeting of April 23, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Budget/Management Committee Meeting of April 30, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Budget/Management Committee Meeting of April 30, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Annual Town Meeting of May 14, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Annual Town Meeting of May 14, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Education Committee Meeting of May 21, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Education Committee Meeting of May 21, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Town Council Meeting of May 21, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Town Council Meeting of May 21, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Budget/Management Committee Meeting of June 6, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Budget/Management Committee Meeting of June 6, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Ordinance Committee Meeting of June 18, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Ordinance Committee Meeting of June 18, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Town Council Meeting of June 18, 2012**

A MOTION was made by Vice President O'Connor to approve the minutes from the Town Council Meeting of June 18, 2012 and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

A MOTION was made by Vice President O'Connor to take COMMUNICATIONS AND REPORTS FROM THE MAYOR, TOWN OFFICERS AND TOWN BOARDS out of order and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

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

**12 101-Appropriation to Overlay Account**

CFO William McKinney requested on behalf of the Mayor that the town transfer the sum of \$77,279.46 -- surplus from the Assessors FY2004 Overlay, leaving a balance of zero and transfer that amount to the Assessors 2008 Overlay, which the Board of Assessors has deemed to be underfunded. A MOTION was made by Vice President O'Connor to refer item 12 101 to the Budget/Management Committee and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**12 102-Appointment to the Redevelopment Authority-Michael Wilcox**

CFO McKinney requested on behalf of the Mayor, and in accordance with section 2-10 of the Town Charter, that the town of Weymouth appoint Michael Wilcox of 418 Union Street to the Redevelopment Authority for a term to expire on June 30, 2017.

A MOTION was made by Vice President O'Connor to refer item 12 102 to the Budget/Management Committee and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

A MOTION was made by Vice President O'Connor to take REPORTS OF COMMITTEES out of order and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**REPORTS OF COMMITTEES**

**Ordinance Committee-Michael Smart-Chairman**

**12 089-Rezoning Request-11 Adams Place-application submitted on behalf of applicant-Cumberland Farms, Inc. – Map 45, Block 514, Lot 8 from Residential R-1 to Limited Business B-1**

Councilor Smart reported that this item was referred to the committee on May 21, 2012. The committee met on May 30, 2012, and a joint public hearing with the Planning Board was held on June 11, 2012, after which the Town Council closed its public hearing. The Planning Board continued its hearing to July 10,

2012 at which time it voted its recommendation to the Council. Councilor Smart read the following recommendation of the Planning Board into the record:

*“The Planning Board hereby transmits its report and recommendations on the above referenced request for property rezoning. A joint public hearing with the Town Council was held on June 11, 2012 and the Planning Board continued its hearing to June 19, 2012 when the hearing was closed. The board deliberated at its regularly scheduled meeting on July 10, 2012 and voted to recommend denial of the requested zoning change. The vote was 4-1 in favor of the denial, with Walter Flynn in opposition to the motion.”*

*“The property is a single family residence on a lot of 11,190 square feet. It has frontage and access on Adams Place, a residential street containing twenty (20) residences. The property is bordered on the east side by a Gulf service station which fronts on Main Street, Park Avenue West and Adams Place. The other abutting properties are residential uses. The Gulf station property is zoned Limited Business (B-1). The property to the south of 11 Adams place on the corner of Main Street and Adams Place is zoned Medical Services District (MSD).*

*Cumberland Farms, Inc. is the owner of the Gulf Service Station and has owned the property since 1986. The property has been a gasoline service station, in various configurations since 1930. In April, 2012 Cumberland Farms, Inc. (CFI) entered into a purchase and sales agreement with the owners of 11 Adams Place. At the public hearing, CFI presented plans to raze the existing service station and dwelling and build a new convenience store with gasoline dispensing service islands.*

*The Planning Board based its recommendation on the following concerns that were discussed during the meeting of July 10, 2012:*

- *The proposed commercial use should not encroach on the residential uses on Adams Place.*
- *The existing B-1 zoned property is large enough to accommodate the service station use.*
- *There could be increased traffic congestion with the expanded commercial use that would impact residents on Adams Place.*
- *A previous review of zoning had been completed for Route 18 in 1990. Any new proposal should review the zoning in a more comprehensive manner.*
- *The Route 18 widening might impact the future use of the site.*
- *A previous request to rezone residential property on Middle Street near Main Street was not recommended by the Planning Board and the board should remain consistent in its recommendations.*
- *Rezoning to expand commercial use at this location would impact residences on Adams Place and Park Avenue West.*
- *The 1990 rezoning study tried to protect residences on side streets by reducing the business zoning area to the lots that fronted on Main Street or Washington Street. Therefore the four corners of this intersection (Main Street and Park Avenue West) are not uniform in size or depth and that is by design.*
- *One member did note that if the Medical Services District rear line were extended north to Park Avenue West it would nearly bisect the lot in question.*

*For these reasons the Planning Board recommends denial of the proposed zoning request.”*

A MOTION was made by Councilor Smart for unfavorable action and was seconded by Vice President O'Connor; he clarified that a “yes” vote is to deny the application for rezoning.

Councilor Harrington read the following into the record:

*“This proposal is to re-zone an R-1 lot into an B-1 lot and develop the property into a large convenience store and gas station combination. In order to approach the decision making process in a clear and organized fashion I have adopted the criteria as set forth in the Weymouth codes section 120-122. These criteria are used as a basis in decision making for special permits, a closely related, almost identical process.*

*The criteria are designed to protect the town of Weymouth and its residents in considering proposals and their effects on the town and the neighborhoods therein. They seek to allow only proposals that promote public health, safety, convenience and welfare and the conservation of property values. These criteria preclude the use of a property that is noxious, offensive or detrimental to a neighborhood.*

*I refer to Weymouth Zoning (sec. 120-122 D and the five criteria contained therein:*

*Criteria 1- The specific site is an appropriate location for such a use*

*It is not appropriate to build a store on that lot as it is an R-1 zone. A comprehensive review of zoning was accomplished in 1990 it is viable and working today. This proposal runs contrary to that zoning review.*

*I find that this proposal does not meet this first criteria.*

*Criteria 2- The use involved will not be detrimental to the established or future character of the neighborhood or town*

*The Adams Place neighborhood now has a specific character. It has been described by the neighbors as a 'quiet county lane', a 'secluded dead end street' a 'secure and quiet close knit neighborhood where their children can play and wander about.'*

*Those who live there have relied on the R-1 designation of 11 Adams Place in choosing this street at their place to live and where they raise their families.*

*This neighborhood has a distinct established character. To rezone this R-1 parcel to B-1 would be detrimental to the established and future character of this neighborhood.*

*I find that this proposal does not meet this second criteria.*

*Criteria 3- There will be no nuisance or serious hazard to vehicles or pedestrians*

*Rezoning this R-1 lot to B-1 will provide the applicant with the opportunity to build a large convenience store and will greatly increase the number of gas pumps at the facility. There would be a marked increase in the number of vehicles and pedestrians entering and exiting the facility. Last year, prior to the filing of this proposal, I met with Councilor at Large Patrick O'Connor at this intersection to observe existing dangers already at this intersection caused by vehicles crossing through lanes of moving and queuing traffic attempting to the Dunkin Donuts on the other corner on the same side of the street.*

*Sometimes these vehicles queue into the street blocking the flow of traffic. It is the busiest Dunkin Donuts in the world.*

*Additionally, residents of Adams Place have stated that due to Adams Place close proximity to the Main Street driveway of the gas station there, some customers exiting the station mistakenly believe that Adams Place residents indicating a turn onto Adams Place are actually trying to enter the Gulf station. This common mistake on their part has resulted in accidents and near accidents. An increase in the number of vehicles exiting the business could result in an increase in accidents and near accidents and would increase the difficulty of making the turn there for the residents.*

*Our town of Weymouth Traffic Engineer, Georgy Bezkorovainy, has stated that the town of Weymouth Planning Department has major concerns regarding this project about levels of service at this intersection and that the operating levels reported by Cumberland Farms traffic engineer are distorted. They did not take traffic queuing into consideration in analyzing the Park Avenue West and Main Street driveways and disregarded the lights at the intersection, in analyzing traffic flow through the intersection.*

*Additionally, the Weymouth Town Traffic Engineer said that their engineer did an inadequate job addressing the existing Dunkin Donuts driveway congestion.*

*I find that the increase in vehicles entering and exiting this proposed business rezoning application will cause an increase and exacerbation of nuisance and serious hazard conditions at this intersection. There is no way that the applicant can address this nuisance and serious hazard issue.*

*I find that his application does not meet this third criteria.*

*Criteria 4- Adequate and proper facilities will be provided for the proper operation of the proposed use*

*The proposed facility might function well in another more appropriate location. However, proper operation of the proposed use, should include safe entry and exit and should not increase the danger of vehicles accessing adjacent streets or businesses. The proposed use would cause a nuisance and serious hazardous conditions.*

*I find that this application does not meet this fourth criteria.*

*Criteria 5- The public convenience and welfare will be substantially served*

*There are several other gas stations within 2-3 miles of this location. There is no demonstrated need for another gas facility. Other vendors are conveniently located; therefore there is no substantial increase in convenience.*

*There are six other convenience stores/grocery stores within a mile of this proposed location. These other, existing businesses are very convenient to all local residents and neighbors. This proposal offers no substantial increase in convenience. The welfare of the public will not be increased.*

*I find that this application does not meet this fifth criteria.*

#### *Conclusion*

*I find that the adoption of these criteria has been helpful in the development of a clear decision. A primary purpose of the Weymouth Zoning bylaws (Zoning, section 120-2), is to 'promote the health, safety, morals, convenience and general welfare of the inhabitants of the Town of Weymouth.' As you know, these criteria were developed specifically to assist as guidelines in formulating decisions regarding special permits. However, these criteria are apropos in the development of this discussion and decision, and provide a sound basis for this decision- making process regarding the application to rezone.*

*The application does not meet any of the criteria.*

*I conclude then, that this application to rezone the property at 11 Adams Place Weymouth should be denied. I am voting against this proposal.*

*I would like to thank the applicants for their thorough professional presentation. Attorney Troyer did an excellent job in presenting his client's case.*

*I would like to thank the Planning department and the Planning Board for their input.*

*I thank and commend Chairman Smart for presiding over this process. It was done well.*

*I commend the neighbors of Adams Place who came together to fight for their values, interests and concerns in protecting their home turf. It is an honor for me to represent them, and for that opportunity, I am thankful."*

**UNANIMOUSLY VOTED.**

## **PUBLIC HEARING-Joint with Planning Board**

### **12 098-Rezoning application for 203 Middle Street-Clapp Memorial Building-application submitted by John Deady-Map 22, Block 291, Lot 9 from Residential (R-)1 to Open Space (POS)**

A MOTION was made by Vice President O'Connor to OPEN the public hearing and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Chairman Walter Flynn opened the Planning Board meeting. A MOTION was made by Mary Akoury to OPEN the public hearing and was seconded by Sandra Williams. UNANIMOUSLY VOTED.

John Deady was invited to the table. He provided a power point presentation. He reviewed the letter of application submitted on May 24, 2012 and the deed for the property, which he has purchased. He reviewed the existing site conditions. He hired an architect to determine the building construction and the soundness of the structure. He reviewed his proposed plans and layout for renovation of the existing building and the construction of four buildings in the rear of the building; two duplex and 2 triplex proposals. Each unit will be 2-bedrooms. Deed restrictions will ensure owner occupancy of all but one of the units, which Mr. Deady will retain for income purposes.

Dormers will be added below the roofline of the existing building and shaded decorative lighting will be installed, replacing the National Grid light poles currently on site. Brick construction will be in keeping with the neighborhood. All utility lines will be located underground. Windows will simulate those in the Town Hall building. Parking will be provided for the residents in the rear; minimal visitor parking will be located in the front.

Mr. Deady reported that he did not provide a current traffic study. He met with the traffic engineer regarding the connecting drive that will run through the property from Middle to Broad Streets. It will be a gated access for residents and emergency vehicles.

Mr. Deady proposed \$2,000 from the sale of each unit to establish a Memorandum of Agreement to provide matching funds for improvement projects by owners in the Central Square historic district.

Mr. Deady estimates less impact to the town and schools than if the four single family homes that could be proposed under current zoning were built. He estimates the potential for five school aged children resultant from this project.

Contractor selection will be offered as a priority to Weymouth contractors/labor unions as is possible. He also met with Water Superintendent David Tower and he confirmed the 110-gallons per day usage estimate is reasonable. He will be required to have an 8" fire line installed at his expense for a sprinkler system.

Trash removal will not impact the town. There will be a fenced in screened dumpster on site. An exterior cooking area will be provided for the residents. Storyboards will be placed in front of the building noting the history of the building and the surrounding historic district, similar to what is installed at Hingham Landing. A community room with full kitchen and bath facilities will be available for use by residents and non-profit community groups.

Mr. Deady reviewed the proposed construction schedule. Construction will be staggered based on the sales so that the project does not have extended vacancies.

He also submitted a petition. He canvassed the surrounding neighborhood to obtain 124 signatures in support of the project. He has met with the District Councilor, Ken DiFazio, and with the East Weymouth Neighborhood Association.

Councilor DiFazio acknowledged that Mr. Deady has done an excellent job in reaching out to the neighborhood and the town. He asked if the residents will be allowed to grill on the balconies, to which Mr.

Deady responded yes; unless ordinance prohibits. He also asked about plantings to buffer the adjacent homes, and directional egress from the driveways.

Councilor Conlon commented on the plantings that have been done on the grounds.

Sandra Williams, a member of the Planning Board asked about the owner occupancy, the number of units and the frontage of each.

Mary Akoury, of the Planning Board commented on the 90% owner occupancy, the condo association, maintenance fees and elevator access.

The following are the comments from the public:

**Jody Purdy Quinlan, 52 Middle Street**, noted she is in favor of this project. The Historical Commission, of which she is a member will meet on this also.

**Janice Robinson, 263 Middle Street**, noted her concerns with water runoff and flooding as a result of the project. Mr. Deady responded that he will be required to provide drainage plans when the project is considered by the Zoning Board of Appeals.

**Pat Dunn, 19 Center Street**, noted that the density has been greatly reduced from the previous project but will still impact the traffic.

**Yvonne Howard, 29 Lincoln Street**, noted that as a young parent in the neighborhood she is in favor of the project and the revitalization of the area.

**Lisa Jennings, 385 North Street**, noted that Mr. Deady has always been a respectful neighbor.

**David Gilberto, 45 Saning Road**, noted that he has known Mr. Deady for many years and he appreciates the opportunity as a local contractor to bid this project. Many buildings in Weymouth are dilapidated and anyone who is willing to renovate and bring back the curb appeal should be encouraged.

**Bob Bender, 189 Liberty Bell Circle**, also supports the project; it's needed in the area and noted it is a financially viable project in his estimation as a development banker.

**Paul Keough, 65 Curtis Circle**, supports the project. He is considering a move out of his parent's home and this project is the type that might keep him within Weymouth.

**Ann Hilbert, 45 Doris Drive**-commented that Weymouth does not have sufficient water resources to support the project because of the Southfield project and building needs to be stopped. Mr. Deady responded that he met with the business manager of the Water Department who has confirmed the water supply can support the project.

**Chris Quinn, 25 Tamarack Trail**, noted that he has known Mr. Deady for many years and as a local contractor he also supports the project as a opportunity to be able to work locally.

**Lisa Kenneally, 41 Echo Avenue** commented that she has known Mr. Deady since he coached her youth basketball team and supports him and the project.

A MOTION was made by Vice President O'Connor to CLOSE the public hearing and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

A MOTION was made by Paul Hurley to CLOSE the Planning Board public hearing and was seconded by Sandra Williams. UNANIMOUSLY VOTED.

Council President Mathews reported that the Planning Board has 21 days from the close of the public hearing to report out to the Town Council with a recommendation. The Ordinance Committee will then meet and make its recommendation for consideration by the full Town Council.

#### NEW BUSINESS

#### **12 100-Town Clerk-Call of State Primary Election –September 6, 2012 (action under 2-9 b)-Vice President Patrick O’Connor**

A MOTION was made by Vice President O’Connor to consider measure number 12 100 under 2-9 b, same night action, and was seconded by Councilor Smart. Unanimously voted.

A MOTION was made by Vice President O’Connor to approve measure number 12 100:

“In the name of the Commonwealth, the Town of Weymouth is hereby required to notify and warn the inhabitants of said town who are qualified to vote in the state primary election to vote on Thursday September 6, 2012.” The MOTION was seconded by Councilor Smart. UNANIMOUSLY VOTED.

#### **ADJOURNMENT**

At 8:50 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