

**TOWN COUNCIL BUDGET/MANAGEMENT COMMITTEE
TOWN HALL-COUNCIL CHAMBERS
DECEMBER 21, 2009**

Present: Kenneth DiFazio, Chairman
Michael Molisse
Patrick O'Connor
Arthur Mathews
Ed Harrington

Also Present: Robert Conlon
Thomas J. Lacey
Brian McDonald
Victor Pap III
Michael Smart
Kevin Whitaker
Maureen Duffy, Town Auditor
James Wilson, Chief Financial Officer
Walter Flynn, Chair Community Preservation Committee
James Clarke, Director of Planning and Community Development

Recording Secretary: Diane T. Hachey

Councilor DiFazio called the Budget/Management meeting to order at 7:12 PM.

09143-Community Preservation Committee-Whitman's Pond Restoration and Preservation

Mr. Clarke and Mr. Flynn presented to the committee and noted that they are requesting a total \$50,875 in order to restore and preserve the main body of Whitman's Pond through herbicide weed control. In the past the Council has approved other treatments for the pond. \$85,875 is the total cost for herbicide treatment for the main body of the pond, \$10,000 was contributed by the Whitman's Pond Association, \$24,000 in additional funding was approved and applied towards this project. The CPC approved this at their meeting of November 5, 2009 and it is their hope to get contracts in place for work to be completed this summer.

Councilor O'Connor motioned for favorable action to the full Town Council, motion seconded by Councilor Mathews and voted unanimously.

09 144-Community Preservation Committee-WHA Window Replacement

The CPC is proposing that \$110,000 is expended for funding the cost of replacement windows at the Joseph Crehan Housing for the elderly at the Calnan and Harrington Circle.

The current window configurations are the originals and are in poor shape. Replacement windows are required in order to install air conditioning in addition to maintaining heat in the units. The CPC reviewed and approved this measure on December 3 and it was further noted that the contracts are in place to proceed with installation.

Councilor Molisse is in favor of installation as new windows are sorely needed—he visited this summer and noted the poor shape of the windows.

Councilor Mathews stated that this is a good investment for our seniors, and he is looking forward to the installation.

Councilor O'Connor motioned for favorable action to the full Town Council, motion seconded by Councilor Mathews and voted unanimously.

09 145-Fiscal Year 2010 Tax Classification

Mr. Wilson distributed a packet of information to each committee member and raised the following three points:

- Solicitor Lane's opinion as attached- cites MGL Chapter 58 sections 1 and 1A
- DOR's review of the tax shift and the fact that said calculations were not in accordance with the provisions of Chapter 58 and therefore the shift to 1.55 was unacceptable
- A public hearing was held on November 30 and DOR has ruled that one public hearing is required, and that only a vote of the Town Council is needed.

The Commissioner had the right to review the shift based upon the town's history. In FY 09 the shift was 76.0922 and in FY 2010 the shift was 90.4853. Utilizing the 150% shift, the calculation is 76.0193%. We are only permitted to shift up to 150%. The DOR compared the fiscal 09 and fiscal 2010 shifts and determined that one exceeded the other and that the commercial properties were bearing too much of the tax burden.

It was noted by Councilor Mathews that in the past 4 years we have decreased the shift, and questioned why DOR simply takes into consideration the past 2 years. Mr. Wilson noted that DOR looks at what total percentage of burden was borne from last year to this

year, and the Commissioner ruled that we were out of compliance by 97 ten thousandths of a point-which equates to approximately \$250,000.

Councilor O'Connor strongly disagrees that the DOR formula should warrant non-compliance, he noted that at the Council's public hearing no one from the commercial business side attended to complain of the tax burden being placed on them. He has received more than 40 complaints from the residential side as a result of this proposed shift. He further disagrees that an additional public hearing is not required and feels that we should appeal DOR's decision.

It was noted by Mr. Wilson that there is no appeal process available, as the Commissioner had made his ruling. If we do not approve this shift, DOR will not certify our tax rate, we will not be able to mail tax bills by year end, which results in loss of income needed to support the town's services. We would have to borrow in order for the town to function.

Councilor Molisse noted that the average homeowner would see a \$117 average increase for next year. He agrees with Councilor O'Connor concerning appealing the decision and will not support this measure.

Mr. Wilson noted that the Mayor is advocating this shift in order to not impact running of the town. Administration would prefer effecting this versus taking the money from the balance of free cash.

Councilor Mathews motioned for favorable action to full Town Council (there was no second to this motion).

Councilor O'Connor motioned negative action to full Town Council with a recommendation that administration seek a waiver from the Commissioner of the DOR within 48 hours, motion seconded by Councilor Molisse.

Councilor Mathews cautions the committee-if we do not accept the DOR's decision, the tax rate will not be set, bills cannot go out and layoffs are possible. He will not support Councilor O'Connor's motion.

It was further noted to additionally contact the state delegation to apply pressure from DOR for an answer within 24 hours.

Votes on the alternate motion were taken by roll call by the Chair:

Councilor O'Connor-YES
Councilor Harrington-YES
Councilor Molisse-YES
Councilor Mathews-NO

Councilor DiFazio-NO

Motion on alternate motion passes 3-2.

At 7:55 PM, there being no further business to attend to, Councilor O'Connor motioned to adjourn, motion seconded by Councilor Mathews and voted unanimously.

Respectfully Submitted by:

Diane T. Hachey

Approved by:

Kenneth DiFazio
Chair of the Budget/Management Committee