TOWN OF WEYMOUTH

Joint Board Meeting
Whipple Center, McCulloch Building
June 17th, 2008

PRESENT: Mayor Susan Kay, Town Solicitor George Lane, James Clarke, Director or Planning & Community Development, Rod Fuqua, Principal Planner/Planning & Community Development

ALSO PRESENT: Weymouth Planning Board: Paul Hurley, Walter Flynn, Sandra Williams, Mary Akoury
Zoning Board of Appeals: Mary McElroy, Kemal A. Denizkurt, Francis Kenneally
Board of Health: Clare LaMorte
Conservation Commission: Jeff Kent, Adrienne Gowen, MaryEllen Schloss/Administrator
Recreation Commission: Stephen Ford
Historical Commission: Mary Dorey
Weymouth Housing Authority: James Cunningham
Community Preservation Committee: Christopher Hannon, (W.Flynn), (J. Cunningham), (A. Gowen)

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Introduction
Mayor Sue Kay began the meeting by thanking all Board members for attending. She informed them that the Town had many issues before them and that Jim Clarke had prepared the list noting those issues, which would be addressed this evening.

FY09 Budget
The first issue was the FY09 Budget, which she viewed as 'dismal'. She noted that last evening the Town Council voted on a FY09 balanced budget, but at this point it would have to be cut again. One of the primary reasons was the escalating cost of insurance including some very large claims. In reference to the claims, she pointed out that the catastrophic claims have grown from 8 to 18 this past year alone - a huge cost to the Town. She said that in making next years cuts all departments have been cut, with the School Department taking the biggest hit because their budget is 50% of the Town's budget - with the Police and Fire Departments next. She noted that cuts in the expense accounts were not very effective because they are only a small percentage of the Town's budget. Re. Free Cash - in the past it has been about $2 million, this year it is substantially down to $180,000. Additionally stabilization is down. Further one-time revenues that have been used in the past for recurring expenses is down, commenting "we've hit bottom" this year. She told members that the Mass. Dept of Revenue (DOR) has told them they are not allowed to use 1-time revenues this year.

Mayor Kay went on to say that initially she asked Department Heads to submit a level funded-budget for FY09, then this request was followed by one for a 1% cut, then a second 1% cut, followed by the last request which was for an additional 3.4%.

A budget of $128,513,202 less, 3.4% was submitted to the Town Council for their approval. At this point there is no funding available for Capital expenditures. Further, the supplemental budget has not been submitted at this time, but this will be done in August when the final number is in. She didn't want to cut any more than she had to. In August, when the revised budget is submitted, it will be for the balance of the fiscal year or a 10-month budget. For those who saw the Town Council meeting on Tuesday night, the cuts were shown. Out of all this, she said there was one good thing - the health insurance rates will stay the same, although there may be an increase in the amount of the co-pay. This year they won't owe any monies, what they are dealing with now re. health insurance are all real numbers (not 1-time revenues).

The next topic was **Southfield**
Mayor Kay stated that the Town has approved the water and sewerage for Part 1A and 1B at a premium rate and they are in discussion for Phase 2. Additionally, they have a service contract now; i. e., with Tri-Town. She explained that we send our Engineers and Inspectors down. At this point they are looking to renegotiate at 1 ½-2x increase.

Mr. Cunningham noted that originally Southfield was responsible for their own water - then asked 'why the change?'

Mayor Kay said they still had the option of saying 'no', which would mean they would have to get their own water through the MWRA/Braintree which would be very expensive. They have also explored other avenues – including the City of Taunton but found them very expensive.

Water Treatment Plant
Mayor Kay told members that the Technical Advisory Committee is handling the bids for the plant. At this point they have made their recommendation and it has been submitted for review. They have just received funding from the Council and can move forward. All is in compliance and all has been accomplished.

Fogg Library
The Mayor noted that there has been extensive damage to the exterior of the building. She said she has made a site inspection and the goal is to save it.

Mr. Clarke stated that the architect had a masonry firm look at the Library and they reported that the work can't be done piecemeal. If they put on new slate, it involves extra weight to the building, which presents a problem structurally. The repairs are extensive and the cost is in the vicinity of $1.7 million. At this point only $350,000 has been allocated.

Mr. Denizkurt/ZBA asked if there was any talk of consolidating the libraries and Mayor Kay replied that the Fogg Library is not functioning as a library now. They were looking at building a new library, but that plan has been scrapped. In reply to Mr. Denizkurt's question Mayor Kay replied 'yes' consolidation would be happening – and this would include consolidation of the custodial staff.

Legion Field
Mayor Kay next reported that the plan for Legion Field was before the Town Council and it was voted down. She said that initially her plan was just to make the area safe. At this time Representative Murphy is trying to get the Town funding for Legion Field in the amount of $750,000. She will ask the DPW to grass and seed the area, but quickly added that is not a priority right now. She went on to say that she wanted to demolish the grandstands, proceed with abatement and drainage improvements, adding that the site also needs wetland replication.

Regional Trash Agreement
Mayor Kay was happy to report that Weymouth, Quincy and Braintree have formed an alliance for curbside pickup/trash removal – with Braintree's SEMass. The three communities have combined resources and prepared an RFP with the firm being Vendor Capital. This company presently serves the Boston area. By joining together they have saved $200,000 right away, which she commented was good news especially taking into consideration the escalation in gas prices.

Further, they are looking at tourism in the three communities – all of which have a lot of historical value. They are also looking at implementing a 'trolley' for all three communities. They have hired an intern for $2,000, who will be setting up an outline, working with Babson College. They are reviewing the revitalization of our historical value and all are looking forward to it. They are taking into consideration the background of the Adams family – John, Abigail and John Quincy Adams (which involves all three communities), adding this has become very popular of late, because of the recent PBS series on John Adams life. Additionally she noted there are other historical areas along Route 3A. She said they welcomed ideas from the Board members as well as the public on this topic, adding this report is due next week. Lastly, she pointed out that all of this is coming to the Town at no cost.

Columbian Square
Mr. Clarke addressed Columbian Square, informing the Board members that last year they worked on the design plan, and this will be ready in a few weeks. They also want to develop the street scope program and strengthen the retail area – they are working with Southfield on this and it will include the Fogg Library. Additionally they are making traffic improvements, including the lights at the intersection (to be completed in 2009).

Mr. Clarke went on to report that he, Mayor Kay and DPW Director Bob O'Connor met with the South Weymouth Merchants Association about doing some short-term improvements; i. e., parking lot. They have 4-5 people the Merchants Group who have volunteered to work with them. Also included in this area is the South Shore Hospital expansion; their new Cancer Center, as well as, their parking garage. Further they are working on Burton Terrace with

those in the neighborhood re. traffic calming. He commented that this would be a test case for the Town of Weymouth that could possibly be used in other communities with similar issues.

Town Recycling Program
Mayor Kay then spoke about the Town going to Single-Stream Recycling; i. e., all waste will go in one receptacle (plastic, glass, paper, etc.) and all will be recycled. She noted that Quincy and Braintree have weekly pickups, but Weymouth's is presently every other week. The new plan becomes effective July 1, 2008.

Route 18
Mr. Clarke told those present that there was a meeting this date with the Mayor, the contractor and a representative from the Mass. Highway Department. At this point they are finishing the drainage work on Rt. 18. The lights are in at Park Avenue, with others to go on line in 30 days. Final paving of Rt. 18, north of Park Avenue is scheduled for August 1st. with plans to complete the north portion up to Rt. 3 in September. He felt by that time people should start to see a marked improvement in traffic flow. He acknowledged that it has been a difficult 1-½ years, but felt in the end the residents would feel it was all worth it.

Greenbush
They are trying to finalize work in the Landing, but they don't have the funds right now. Plans are to go back to the "T" for the funding. At this point plans are to move forward with the money they have now. Mr. Clarke also wanted to note that all lights are not working right now, but they have been told by the contractor they will begin rectifying this problem by July 1st.

Mayor Kay confirmed that they were trying to obtain help from the "T".

Mr. Clarke was happy to report that the "T" rider ship is up, due in part to the increase in gas prices.

Fulton School
Mayor Kay stated that the Town will be receiving $1.2 million dollars for the sale of the Fulton School and the Town is hoping to receive the money by July 15th. These funds will be deposited into an Escrow account to show D.O.R. (this money is needed to be part of the Town's funds by 7/15/08). Further, Representatives Mariano, Murphy and Senator Hedlund are helping to expedite this.

Zoning Amendments
Mr. Clarke stated that he was working on a new zoning package – trying to prioritize a half a dozen items that are being focused on by the Zoning Board of Appeals. They are also trying to get others involved in this process.

Back River Trail
CPA (Community Preservation Act) money has been voted for the Herring Run Pool. They are now looking to hire a landscape designer in the next week or so. Further, the connection to the Abigail Adams Park is moving forward.

Funds are also coming from Conoco Phillips, as well as, the Town for the study of the Back River watershed, with MaryEllen Schloss, Conservation Administrator being the contact person. This work will begin this summer and is expected to be completed by next year.

Remediation of East Bay
Conoco Phillips is finalizing this work and in doing so have made many improvements, including Webb State Park and Tern Harbor. This project has taken over 15 years. Mr. Clarke commented that Conoco Phillips has been great through the whole experience.

Mayor Kay told those present that she would like to have some interaction and comments/feedback from the Boards regarding all of the topics/projects discussed this evening. She said she would leave input on these projects up to them, unless she is passionate about a particular one then she would become involved. She commented that she liked the Town having a 'village' atmosphere.

Signage
Mayor Kay said she would like to see the signage in the Town less gaudy and flamboyant – starting with those along Rt. 3A, Weymouth's gateways. She noted that Town did not have a lot of money, but she would appreciate the Board members to partner with her on this goal.

Mr. Flynn asked about pilot agreements with the South Shore Hospital. He also referred to Greenbush and asked about the 'no whistles in place of bell's rule?'

Mayor Kay responded that she was on board with his thinking, but said that she has not heard them, with Mr. Flynn confirming 'they are there'.

Mr. Clarke interjected that they could be found at the crossings, adding that when there are workers in the line they are required to do so. He told Mr. Flynn that he would call them regarding use of the bells.

Pilot Program
Mayor Kay stated that she served on this committee – and they sent letters to all non-profit agencies. She felt they probably would need to revisit it again with regard to building in the Town. She would be asking for them to do things for our community.

Ms. Gowen asked about the progress re. the **Clapp Memorial**.

Mayor Kay responded that she supported Chapter 40R, not only for revenue purposes, but so that the Town would have more input in the design. She was not in favor of petitioning the state, adding the Clapp Memorial is presently in limbo.

Mr. Clarke said it was a possibility the owners might put it back on the market at some point, adding that it is difficult because it is zoned 'residential'. He felt it was a beautiful building and noted it was listed in the Historical Register. He felt if another church was interested in it, it would be beneficial to the Town. At this point they need to wait and see what the market will bear.

Jeff Kent asked about an 'override effort'.

Mayor Kay told Mr. Kent that she would like nothing more, but noted they attempted to do this one other time and the Override failed. At present, two Town Councilors are talking about it. She pointed out that the Town's residents were financially hurting; i. e., motor vehicle excise taxes aren't being paid by those that usually pay on time. She said she could have doubled the trash fees as a source of revenue, but she didn't think the people could afford to pay the fee. She emphasized that those that have always paid their bills in the past are not doing so now due to so many escalating costs.

Mr. Kent acknowledged this, but pointed out that services would be affected now.

Mayor Kay told him that she didn't have the ability to lobby for an override in her role as Mayor, adding that the last time the School Department and parents put forth a good effort for an override it was defeated.

At this point Mr. Clarke introduced Town Solicitor George Lane to discuss Meeting Procedures including the Mullin Rule and the Open Meeting Law (a handout was distributed).

Town Solicitor Lane stated that the Open Meeting Law focuses on meetings being 'open' to the public. He referred to Chapter 39, Sect. 23A, B, etc. He noted that the latest timely topic regarding this subject is the "Mullin Rule", which was recently accepted – with the statute being passed last year.

Town Solicitor Lane explained to members that if a Committee/Board member misses one public hearing/meeting, in order to participate on a vote on the matter, he can do one of the following:

- view a video recording of the meeting
- listen to an audio tape
- read the transcript/minutes/notes of the meeting/minutes

If none of the three are available, then that person would not qualify to vote.

Mayor Kay asked 'must it be noted there is a certification' and Town Solicitor Lane replied 'yes'.

Mr. Flynn asked 'at what point do minutes constitute a transcript' and Town Solicitor Lane responded that only verbatim minutes would count, adding that an 'audio' tape would be the best bet.

Mr. Denizkurt asked "if I missed a Zoning Board of Appeals hearing and listened to the audio - can I ask questions?"

Town Solicitor Lane replied 'not if the hearing is closed'.

Mr. Clarke referred to the Mullin Rule, stating that the staff will make sure all Board members (even those not present this evening) received a copy of it. He asked the members that were present to make sure their fellow Board members/staff become aware of the need for taping a meeting/public hearing.

It was also suggested the Chairman continue the hearing if a member could not be present - or if a member might want to ask questions after listening to the tape, notes or video. He emphasized a hearing should be continued until all questions are answered.

Town Solicitor Lane noted that the key word was 'a judicatory hearing', in which all Boards could participate.

Town Solicitor Lane referred to public hearings, stating that the point is to avoid 'secret' meetings. He noted that there could be penalties involved, adding newspapers are in tune to these types of issues of late so they can't be circumvented. If so, the matter goes to the DA, then back to the Board as well as himself the Town Solicitor. He wanted to point out that the Town has never been fined in his 18 years serving as Town Solicitor. He wanted to point out that all governing bodies are subject to this ruling, including sub-committees - although it does not apply to individual members; i. e., Chief of Police, Mayor, Superintendent of Schools.

Atty. Lane went on to explain that the Open Meeting Law also does not apply to site visits, as long as the members are not deliberating - the same policy goes for social gatherings.

Mayor Kay asked if it applied if the Town Council was touring the Fogg Library as a quorum - and the Town Solicitor replied 'only if it is considered a site visit with deliberation taking place re. matters at issue'.

Mr. Clarke in referring to site visits, informed those present that he posts those types of meetings, even though he is not required to do so - just to make sure there are no questions.

Town Solicitor Lane agreed, commenting you can't go wrong doing that - and that sometimes these situations can become very difficult. He said that in the past questions have arisen regarding meetings at the Air Base - and those questions were forwarded to the state for their input. He explained that those subcommittee members in attendance were only gathering information - then reporting that information back to the full committee.

Executive Session

Town Solicitor Lane next referred to "Executive Session" meetings. He said there was an issue a few years ago with one of the Town Boards regarding an Executive Session meeting that was held and it was flagged to the District Attorney. When DA's office asked him about it, he explained that what happened was just a misunderstanding and it would never happen again. His response was accepted, adding it was just an honest mistake.

Open Meeting Law

Town Solicitor Lane further explained that the Town Clerk is responsible for posting the meetings - giving the public a 48-hour notice. Re. quorums - that is defined as a majority of the governing body, but if the matter before the Board is a zoning amendment it could have other zoning requirements outside of the attendance requirement of a simple majority. He went on to say that if the meeting is of an emergency nature without any official notice you must be very careful, the

emergency must be 'catastrophic'. He said he looks at criteria for these types of meetings from the viewpoint of the District Attorney.

Mayor Kay commented that in another community, a Police Chief was threatened via an email and an Emergency Meeting was called, but it was declared that this matter did not qualify as an emergency and those involved were chastised.

Town Solicitor Lane sited another example where the Town's septic system failed in one of the schools. Based on the seriousness of the problem, an emergency meeting was called. The School Committee was informed that that reason did not qualify for an Executive Session. He further explained that when a meeting is posted, an accompanying agenda is not required.

Public Hearing Procedure

Mr. Clarke stated that most Board members are familiar with this process. In many instances the Chairman/members waiver the reading of the public notice of the hearing - then the procedure to be following regarding the public hearing is explained to those in attendance - especially when format for when the public can speak. He commented that this is very important when it is an emotional issue that is before the Board.

The procedure for a public hearing usually calls for the following procedure:

1) the proponent to speak first
2) then the Board members
3) followed by the staff
4) then the public

Mr. Clarke further stated that at one point in the past when the hearing was closed there would be further discussion which was not appropriate - now they make sure they keep the hearing opened, especially keeping in mind that new information might be coming in and questions may be in order.

Mr. Fuqua emphasized to the Board members that they make sure the feedback and discussion that takes place is for the purpose of understanding the project and clarifying all points. He urged that members not be argumentative or present dialogue on their personal viewpoint. He said members should evaluate the project based on the rules, not on personal preference.

Mr. Flynn stated that in the past some residents have complained that they couldn't hear, especially when there were no microphones present (Clapp Building). Based on the person's comments, that person was moved up front. He then asked 'what requirements are there for this?'

Town Solicitor Lane replied that the Open Meeting Law doesn't address this, but encouraged that the Chairman do whatever he/she can do to help out the person in need. Further, he said - if you have a disruptive person I recommend calling a recess and if this doesn't make a difference, then continue the hearing - adding this will help to avoid a civil rights suit.

Mr. Clarke stated that he addressed the issue Mr. Flynn brought up (regarding the hearing problem) with Human Resources and at that time they had a portable amplification system. He agreed with Atty. Lane that moving the person up front was a good resolution to the problem.

Re. Executive Session

Town Solicitor Lane explained when calling for Executive Session, the reason must be cited (this was noted in the handout entitled "Meetings and Minutes Guide for Boards, Commissions & Committees prepared by the Town Solicitor). He then read the reasons listed in his handout.

Atty. Lane then explained the procedure involved when holding an Executive Session meeting: First the Chairman calls for a roll call vote and notes the specific exemption or exemptions applicable - indicating in that motion that you intend to reconvene in Open Session after holding Executive Session. He added that the only exception re. holding Executive

Session would be the reputation, character, physical condition or mental health of a person - rather than the professional competence of an individual. Again referring the Board members to the details listed in his memorandum.

Discussion continued regarding the reasons for Executive Session and the required procedure.

Town Solicitor Lane clarified that after holding Executive Session, the members return to Open Session to take whatever action is appropriate.

Mr. Clarke also wanted to point out when making the motion for Executive Session; you don't have to go into detail, just to give the subject.

Town Solicitor Lane next referred to the minutes - stating that the basic requirement of the Open Meeting Law is that the minutes contain:

1) time/date
2) attendees
3) action taken

adding that the dialogue can be corrected if appropriate, and that complete dialogue is not necessary.

Mayor Kay asked if when the minutes are reviewed by the members and one of the members refers to his/her dialogue within the minutes - is that person allowed to change what he/her has said?

Town Solicitor Lane replied that the minutes must accurately reflect what is actually said during that particular meeting.

Next Mr. Clarke referred to **Executive Session minutes,** stating that when the reason for keeping the minutes of an Executive Session meeting has ended, the minutes then become public record - urging members to keep that in mind when speaking during that time period.

Town Solicitor Lane added that if the minutes are held in Executive Session for matters of litigation, then they are usually eventually released.

Mayor Kay asked if a person walks in Town Hall and asks for the minutes of a particular meeting, can they be released before they are approved and Town Solicitor Lane replied 'yes', adding it makes no difference if the minutes have been approved or not, they become public record right away.

Mayor Kay asked 'is the office given a certain amount of time to produce them?'

Town Solicitor Lane replied that a request for minutes can be made verbally and does not have to be in writing. The staff person responding can ask for some time to get them to him/her - and most of the time this is acceptable.

Mr. Clarke interjected that most of the time people are just looking for information, so you should work with them, cooperation usually works.

Fran Kenneally/Z B A asked if there was a cost involved and Town Solicitor Lane responded they should use the hourly rate of the lowest salaried person in the office.

Mr. Flynn asked if there was a set time frame for publication of the minutes and the response was 'no', you can supply an audiotape or notes from the minutes.

Next addressed was the 'Conflict of Interest Law'.

Mr. Clarke wanted to point out that in regard to methods of communication; email qualifies as a public record, with Atty. Lane commenting 'nothing is sacra sanct'. He said penalties in this area could go as high as $60,000/$70,000 - and to keep this in mind.

Mr. Clarke told members that if they see a person/resident outside of Town Hall (possibly at a social gathering) and they ask about meeting matters - the proper response is "I can't discuss it because it is before our Board right now" - but if communication does take place, he recommended that you announce it at the next meeting/public hearing.

It was noted that most Boards try to get their minutes on the Town website in a timely manner.

Mr. Flynn stated when his CPC committee developed a master plan; it was signed by Mayor Kay and approved by Town Council. He then asked 'what does it constitute?'

Mayor Kay and Jim Clarke agreed that it should be viewed as a 'guideline' without a mandate, although it does mean something and should be used.

Mr. Clarke said they will get more into that next year, commenting things continue to change and evolve.

Mayor Kay recommended they let people know that they have implemented part of the plan where appropriate - and it did not sit on the shelf.

At this point Mayor Kay and Mr. Clarke thanked all for attending and the meeting concluded at 8:40 PM.

Respectfully submitted,
Susan DeChristoforo
Recording Secretary

Approved:

Paul Hurley, Chairman

11/18/08
Date

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