

**TOWN COUNCIL MEETING  
TOWN HALL-COUNCIL CHAMBERS  
MARCH 1, 2010**

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

Not Present: Robert Conlon  
Maureen Duffy-Town Auditor

Also Present: Franklin Fryer, Town Clerk  
James Wilson, Chief Financial Officer  
Michael Gallagher, Director of Administrative & Community Services  
George Lane, Town Solicitor  
Walter Flynn, chair CPC  
James Clarke, Director of Planning  
Robert Luongo, Planner  
Sergeant John Concannon, Weymouth Police  
Chief Grimes, Weymouth Police

Recording Secretary: Diane T. Hachey

Council President Mathews called the meeting to order at 7:35 P.M. Franklin Fryer conducted a roll call with Councilor Conlon not present. President Mathews noted that Councilor Conlon had a prior commitment and is unable to attend this evening.

**ANNOUNCEMENTS**

Councilor DiFazio announced that tomorrow evening, at 7:00, a presentation by Mr. Bill Barry on the 40R rezoning project at Clapp Memorial will be held. This plan will eventually be presented to the Council, and he encourages all interested parties to attend.

Councilor Smart acknowledged the unfortunate passing of Al Donovan, who was a disabled US Army Veteran and served in numerous capacities. He was a member of the

Weymouth Veterans Council, the Weymouth Democratic Town Committee and a delegate to the State Convention.

A moment of silence was recognized in honor of Mr. Donovan.

Councilor O'Connor noted that in October Liberty Mutual launched a "Be Fire Smart Safety Pledge Program", which resulted in the awarding of \$10,000 grants to local fire departments. Recipients of the grants were based on answering an on line quiz-- Weymouth was proudly awarded one of the grants.

Councilor Harrington noted that the annual Chili/Cheesecake contest at the Pond Plain Improvement Center will be held on March 20. There is a nominal fee to enter your recipe. He encouraged all to attend.

Councilor Pap noted that it was "Read Across America Day" and he read a Dr. Seuss book to the kindergarten class at St. Jerome's.

**CITATION ISSUANCE FOR RESCUE EFFORTS PRESENTED TO  
FIREFIGHTERS JUSTIN MYERS AND RICHARD WEBB  
-COUNCIL PRESIDENT ARTHUR MATHEWS AND VICE PRESIDENT  
PATRICK O'CONNOR**

President Mathews noted the rescue efforts of Officer Myers and Webb while off duty as cited in a letter from Chief P. Kenneth Clarke of the Hopkinton Fire Department. The incident occurred on January 23, 2010 and involved a four wheeler accident. The firefighters' rapid response and high skill level lead to alleviation of a potentially life threatening situation.

Michael Gallagher presented a citation on behalf of the Mayor's Office as well.

**MINUTES**

**TOWN COUNCIL MEETING MINUTES OF JANUARY 25, 2010**

Councilor O'Connor motioned for favorable action, motion seconded by Councilor Smart and voted unanimously.

**ORDINANCE COMMITTEE MEETING MINUTES OF FEBRUARY 1, 2010**

Councilor O'Connor motioned for favorable action, motion seconded by Councilor Smart and voted unanimously.

**BUDGET/MANAGEMENT COMMITTEE MEETING MINUTES OF  
FEBRUARY 1, 2010**

Councilor O'Connor motioned for favorable action, motion seconded by Councilor Smart and voted unanimously.

**TOWN COUNCIL MEETING MINUTES OF FEBRUARY 1, 2010**

Councilor O'Connor motioned for favorable action, motion seconded by Councilor Smart and voted unanimously.

**PUBLIC HEARINGS**

**7:35 PM 09 124-DESIGNATION OF CONSERVATION COMMISSION  
MEMBER AS A SPECIAL EMPLOYEE**

Councilor O'Connor motioned to open the public hearing on measure number 09 124, motion seconded by Councilor Smart and voted unanimously. It was noted that this was published on February 19.

Councilor Mathews noted that it was stated in the newspaper that he was the author of this measure, he wants to clarify that he is not the author. Solicitor Lane confirmed that there was no public hearing requirement on this measure, but this doesn't prevent the Council from holding a public hearing. He noted that this measure concerns the appointment of Steve DeGabrielle to the Conservation Commission, and a question which arose as to a potential conflict of interest in his position with the DEP. Mr. DeGabrielle has agreed to forego his stipend, if it is determined that his position is classified as a special municipal employee then all conservation members would be classified as such. Mr. Lane noted that this is simply a classification based on the state law and is a heightened disclosure with no monetary gains to Mr. DeGabrielle. It was noted that Mr. Lane has also been classified as a Special Municipal Employee. Mr. Lane alerted all that additional record keeping (affidavits) on behalf of the Town Clerk's Office are required should this measure pass.

The following comments were received from the public:

**Linda MacDonald of 58 Laurel Street**-noted her concerns with the Conservation Commission recently losing three of its members and having a new member entering with special circumstances surrounding potential conflict of interest issues.

Councilor O'Connor noted that Mr. DeGabrielle has been serving as a substitute member of the Commission and is doing a fine job. He feels that the need for Mr. DeGabrielle to recuse himself from voting would be minimal. Councilor O'Connor motioned to close

the public hearing on measure number 09 124, seconded by Councilor Smart and voted unanimously.

### **7:36 PM-09 140-PARKING FINES ORDINANCE AMENDMENT**

Councilor O'Connor motioned to open the public hearing on measure number 09 140, seconded by Councilor Molisse and voted unanimously. It was noted that this was published on February 19. Chief Grimes and Sergeant Concannon spoke to increasing fees which have not been in 8 years (cut and paste from budget minutes here)

The following comments were heard from the public:

Robert Montgomery Thomas of Washington Street, noted that state law defines marking of handicapped locations and questions why not increase violations as he cited numerous instances of falsely used placards, he suggested a violation charge of \$125-\$150. He impressed the importance of verification that proper signage is erected-clearly indicating handicapped parking locations. He questions if we are increasing other parking fees by 100% why are we not proposing at a minimum a 25% increase for handicapped parking violations.

Linda MacDonald of 58 Laurel Street-cited the issue of individuals blocking sidewalks with their vehicles and hopes that enforcement is conducive to deterring this. She noted enforcement of overnight parking needs to be stepped up. She suggested notation of these increases in the inserts of the excise tax bills.

Councilor O'Connor motioned to close the public hearing on measure number 09 140, motion seconded by Councilor Smart and voted unanimously.

### **7:37 PM-10 007-COMMUNITY PRESERVATION COMMITTEE WHITMAN'S POND PRESERVATION FOR FUNDING ON CONSERVATION RESTRICTION FOR OPEN SPACE LAND PURCHASE LOCATED ON WOODBINE ROAD**

Councilor O'Connor motioned to open the public hearing on measure number 09 140, seconded by Councilor Smart and voted unanimously. It was noted that this was published on February 19.

Mr. Clarke and Mr. Luongo addressed the Council. This funding request involves a conservation restriction on a property located at the end of Woodbine Road. This property was purchased with funds from the CPA. This request is for \$4,000 for the entity overseeing the enforcement of the conservation restriction. In the fall of 2007, the CPC voted to acquire the mainland and island; in December 2007 the town acquired the property. We are required to obtain a conservation restriction which preserves land in as natural a state as possible. Passive recreation is suggested which is classified as hiking, boating (non motorized), vegetation protection, and parking of five vehicles, with

benches and paved walking and biking trails. Mr. Clarke further noted that the conservation restriction lists the specific activities which are prohibited (ie:storage of vehicles or boats, motorized items of any kind).

The following comments were heard from the public:

**Trisha Pries of 15 Woodbine Road**-noted that three constituents were not able to attend this evening. She has an issue with construction, parking and installation of a ramp. There were many discussions with Ryder Development and the Planning Board on these issues. She doesn't want to change the typography of the land and construction would in fact do that. Ms. Pries additionally voiced her concerns with accessibility of emergency vehicles and a potential liability to the Town of Weymouth. She offered to host a site visit for any Councilor who so desired.

**Robert Montgomery Thomas of 848 Washington Street**-suggested that the conservation restriction should only include a single list of items (not in excess of ten) which are allowable. He questions the need for an additional boat launch when there is one at the other end of the pond. Mr. Thomas further suggested a time delay limit on further development.

**Douglas Marsden of 26 Woodbine Road**-noted that his property abuts the land under discussion. He confirmed that there are at least four launching sites available and questions the need for a fifth. He is concerned with who will take responsibility for maintenance and cleanup if the property is built. As it stands now, the area is strewn with trash and no one has taken responsibility for clean up and maintenance.

Councilor DiFazio noted his concern with the width of the street not being able to accommodate passage of emergency vehicles.

Councilor DiFazio further requested an explanation from Mr. Clarke as to how an amendment would effect the process. Mr. Clarke confirmed that the town would have to go back to the state, which isn't necessarily an overnight process.

Mr. Clarke noted that the town hasn't had any discussions, nor has any plans for development , as there is no funding set asides at this time.

Mr. Flynn noted that all issues raised this evening were previously discussed at length at the CPC meeting, and that these restrictions were listed so as to protect the land for the people of Weymouth by only allowing passive recreation.

Councilor O'Connor motioned to close the public hearing on measure number 10 007, motion seconded by Councilor Smart and voted unanimously.

**7:38 PM-10 008-COMMUNITY PRESERVATION COMMITTEE**  
**PRESERVATION OF WALL AND GATES AT VETERANS' MEMORIAL**  
**FIELD**

Councilor O'Connor motioned to open the public hearing on measure number 10 008, seconded by Councilor Smart and voted unanimously. It was noted that this was published on February 19.

Mr. Clarke noted that this measure is to fund the first phase of this project, the CPC determined that the site is historic and Raymond Design Associates reviewed the project and supplied an estimate. \$271,000 is the total amount being requested; \$50,000 of which is for the wire cut bricks. Two additional phases of the project remain, but this phase has the most overall visual impact. The press box and stands have been removed, the field has been regraded and the field is much more aesthetically pleasing.

The following comments were received from the public:

**Robert Montgomery Thomas of 848 Washington Street**-noted that he created his own design for Legion Field and he met with the Assistant Administrator of the BAC. He suggests that we utilize apprentices to complete the brick work with a proviso that a plaque is dedicated to them.

**Linda MacDonald of 58 Laurel Street**-cautioned that the town would have to go through the bidding process for this job.

Councilor O'Connor motioned to close the public hearing on measure number 10 008, motion seconded by Councilor Smart, and voted unanimously.

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

Mike Gallagher presented on behalf of the Mayor's Office.

**10 010-RESERVE FUND TRANSFER-SPECIAL ELECTION COSTS**

It is being requested to transfer the sum of \$13,319.07 from the reserve fund for the purpose of funding the costs associated with two special elections for the Town Clerk's Office.

Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Molisse and voted unanimously.

#### **10 010A-RESERVE FUND TRANSFER PART TIME PERSONNEL COSTS**

It is being requested that \$2,000 is transferred from the reserve fund for funding the cost of a part-time clerk's position for 8 weeks in the Clerk's office.

Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Molisse and voted unanimously.

#### **10 011-DEED IN LIEU OF FORECLOSURE-THICKET STREET**

It is being requested that a deed is accepted in lieu of tax foreclosure for the property located at map 63, block 647, lot 003.

Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Smart and voted unanimously.

#### **10 012-APPOINTMENT TO THE BOARD OF ELDER SERVICES-DOROTHY CANNIFF**

In accordance with section 2-1- the Mayor submits the name of Dorothy Canniff of 84 Madison Street for appointment to the Board of Elder Services-- with a term to expire on June 30, 2012.

Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Molisse and voted unanimously.

#### **10 013-AMENDMENT TO SECTION 3-208 (CULTURAL COUNCIL) OF THE MUNICIPAL CODE**

It is being requested that section 3-208 is amended to include that the Cultural Council will consist of seven members for terms of 2 years each, with no member serving more than three consecutive terms. This is to reduce the members from nine to seven.

Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Smart and voted unanimously.\*

### **10 014-SALE OF TOWN OWNED LAND-RANDALL AVENUE-ESTABLISH MINIMUM BID**

The following measure is under consideration in accord with Section 5-304 of the code of ordinances and MGL Chapter 30B section 16 to sell the parcel located at map 22, block 300, lot 38 (Randall Street ) and that the Council affix a minimum bid amount. It was noted that this measure necessitates executive session.

Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Smart and voted unanimously. Councilor Molisse noted for the record that the measure incorrectly reads "Randall Street" it should be "Randall Avenue".

### **10 015-PROPOSED REZONING-RANDALL AVENUE**

It is hereby requested that the parcel of land located at map 22, block 300, lot 38 is amended from open space to residential classification.

Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Smart and voted unanimously.

\*President Mathews requested reconsideration of the vote on measure number **10 013**-so moved by Councilor O'Connor, seconded by Councilor Smart and voted unanimously.

Councilor O'Connor voted to refer measure number **10 013** to the Ordinance Committee (previously voted for referral to Budget/Management). Motion seconded by Councilor Smart and voted unanimously.

### **REPORTS OF COMMITTEES**

#### **BUDGET/MANAGEMENT COMMITTEE-CHAIRMAN DIFAZIO**

#### **10 007-COMMUNITY PRESERVATION COMMITTEE-WHITMAN'S POND PRESERVATION FOR FUNDING ON CONSERVATION RESTRICTION FOR OPEN SPACE LAND PURCHASE ON WOODBINE ROAD**

Chairman DiFazio noted that this measure was referred to the Budget/Management Committee on January 25, the committee met on February 1 and voted to table. A meeting tonight resulted in a vote of 3-2 for unfavorable action.

Councilor O'Connor motioned for unfavorable action on measure number 10 007.

Councilor Smart made a substitute motion for favorable action, motion seconded by Councilor Whitaker.



Councilor Lacey asked what the procedure is if the Council wishes to amend the conservation restriction. President Mathews instructed all that either the document is accepted in full or rejected.

Mr. Clarke clarified that administration does not wish to amend the document as presented.

Councilor Lacey made an amendment to the substitute motion to remove sections 3, 4, and 5, located on page 6 (“The construction at the end of Woodbine Road for no more than five cars, repair and maintenance of pervious, vehicular parking areas, and picnic areas. The use and parking of individual transportation vehicles necessary for the mobility of persons with disabilities. The construction of boat ramps and/or docks for the use of non-motorized canoes and kayaks.”). Motion seconded by Councilor Molisse.

Councilor Molisse noted that he will support the amendment to the substitute motion as he is in agreement with the changes.

Councilor Harrington stated his concern with a small, local group of residents having control over of a town-wide project.

Councilor DiFazio wants to keep in mind that by not having permissive language in the conservation restriction, which would support a recreational facility, the town may be asking for trouble.

Councilor O’Connor is in agreement with Councilors Molisse and Lacey and will be voting in favor of the amendments to the conservation restriction.

Councilor Lacey reiterated the concerns of the Woodbine Avenue residents: safety, loitering, maintenance and upkeep, he feels we can appease them and still honor the CPC’s work and stay true to the project.

Councilor McDonald stated that it is difficult to envision that administration would implement development without going through the proper channels. The language inherent in the conservation restriction provides flexibility down the road and doesn’t commit or non commit the town; therefore he is support of the original motion.

President Mathews will support the amended substitute motion and feels there is currently adequate parking, with a short walk to the boat launch.

On the amended substitute motion to amend sections 3, 4, and 5 on page 6 of the conservation restriction a roll call vote was taken as follows:

DiFazio-no	Pap-yes
Harrington-no	Smart-yes
Lacey-yes	Whitaker-no
McDonald-no	O'Connor-yes
Molisse-yes	Mathews-yes

Motion passes 6-4.

The motion was restated by President Mathews: the Council voted to remove the noted language from the conservation restriction and refer to the Mayor with changes.

#### **10 008-COMMUNITY PRESERVATION COMMITTEE PRESERVATION OF WALL AND GATES AT VETERNA'S MEMORIAL FIELD**

Chairman DiFazio reported that this measure was referred on January 25, the committee met on February 1 and voted unanimous favorable action. On behalf of the Budget/Management Committee Chairman DiFazio motioned for favorable action for approval of \$271,000 from the CPC unreserved fund balance for the purpose of funding the preservation of the historic wall and gate at Veterans' Memorial Field.

Motion seconded by Councilor Smart and voted unanimously.

#### **ORDINANCE COMMITTEE-CHAIRMAN SMART**

#### **08 095-PROPOSED ORDINANCE-TENANT IDENTIFICATION**

Chairman Smart reported that this measure was put forth by a colleague and it did not come to fruition. Councilor Smart motioned for no action, seconded by Councilor DiFazio, and voted unanimously.

#### **09 124-DESIGNATION OF CONSERVATION COMMISSION MEMBER AS SPECIAL EMPLOYEE**

Chairman Smart reported that this measure was referred on November 9, 2009, the committee met on November 16, and again on February 1 at which time the committee voted 4-1 for favorable action.

Councilor Smart motioned for favorable action, motion seconded by Councilor O'Connor.

Councilor Whitaker noted his concern with setting a precedent and announced that he will be voting against this measure.

Councilor Molisse concurs and is concerned that the board was wiped out last summer of members.

President Mathews will not be supporting designating the commission to accomodate one individual. In the ten years of the new form of government, this issue has never arisen.

On the motion for favorable action, a roll call vote was taken as follows:

DiFazio-yes	Pap-yes
Harrington-yes	Smart-yes
Lacey-yes	Whitaker-no
McDonald-yes	O'Connor-yes
Molisse-no	Mathews-no

Motion passes 7-3.

#### **09 140-PARKING FINES ORDINANCE AMENDMENT**

Chairman Smart reported that this measure was referred on November 16, 2010, the committee met on February 1 and again this evening and voted 5-0 favorable action, pending a favorable public hearing.

Councilor Smart motioned for favorable action, motion seconded by Councilor O'Connor and voted unanimously.

#### **RULES COMMITTEE-COUNCILOR WHITAKER**

#### **10 001-REVIEW OF TOWN COUNCIL RULES AND REGULATIONS 2010-2012**

Chairman Whitaker reported that he has requested input from his fellow Councilors in addition to the public. A Rules Committee Meeting was scheduled prior to the last Council Meeting, but was cancelled due to inclement weather. The meeting has been rescheduled to March 16, 2010 at 7:00 PM- he again invited the public to attend. To date, he has received approximately 50 changes to which he has prepared a document which can be requested by sending an email to the Town Council Office.

Councilor Whitaker noted that he looks forward to reporting out at the April 5, 2010 Town Council Meeting.

### **MOTIONS, ORDERS AND RESOLUTIONS**

#### **FILM TAX CREDIT RESOLUTION-COUNCILOR O'CONNOR**

Councilor O'Connor read his proposed Film Tax Credit Resolution and requested referral to the Economic Development Committee, so moved by Councilor Smart, seconded by Councilor Lacey and voted unanimously.

At 9:45 PM, there being no further business to attend to, Councilor O'Connor motioned to adjourn, motion seconded by Councilor Smart and voted unanimously.

Respectfully Submitted by:

Diane T. Hachey as Recording Secretary

Approved by:

Arthur Mathews  
President of Weymouth Town Council