

MINUTES OF THE TOWN COUNCIL
Town Hall Council Chambers
March 6, 2006

Present: Michael Smart, President
Paul J. Leary, Vice-President
Jack Carey
Kenneth DiFazio
Sue Kay
Thomas J. Lacey
Arthur Mathews
Michael Molisse
Patrick O'Connor
Gregory Shanahan
Kevin Whitaker

Not Present: Jane Hackett, Chief of Staff

Also Present: Franklin Fryer, Town Clerk
Richard Swanson, Town Auditor
James Wilson, Chief Financial Officer

Recording Secretary: Janet Murray

President Smart called the Town Council Meeting to order at 7:30pm.

ANNOUNCEMENTS

Councilor Molisse announced that on 3/8/06 and 3/11/06, the Weymouth High School Planetarium will host a program called Earth's Nearest Neighbor. Registration forms are available on the Town's website.

Councilor Mathews stated that the Public Works Committee will meet 3/13/06 at 6:30 in the Council Chambers.

Councilor Kay stated that Libbey Industrial Parkway will be closed from 2/27/06 through 3/10/06. It will be open to local traffic only.

Councilor Kay stated that an informational meeting on the environmental cleanup at East Bay will take place on 3/8/06 at the Tufts Library.

Councilor Kay stated that the Department of Elder Services has WEY stickers available for sale at \$3 each. The stickers will also be available at the Old Depot General Store in South Weymouth. All proceeds will go to Elder Services.

Councilor DiFazio stated that there will be a Legion Field project update at the next Council meeting on 3/20/06.

Councilor DiFazio urged residents to review the Town's website. On 2/22/06, Administration came out with the East Weymouth Station Evaluation of Commuter Impacts on Neighborhoods. This is an extensive evaluation completed by Administration, the East Weymouth Neighborhood Association, and store owners in East Weymouth Neighborhoods.

Councilor Leary stated that the Naval Air Station Advisory Committee will meet on 3/13/06 immediately following the Public Works meeting.

MINUTES

Town Council-2/6/06

Councilor Leary stated that two typographical errors on page one require correction.

A MOTION was made by Councilor Leary to ACCEPT the minutes from 2/6/06, as amended, seconded by Councilor O'Connor and PASSED on an 9-0 vote with Councilors Carey and Mathews abstaining.

Rules Committee-2/21/06

Councilor Leary stated that Councilor Smart's name should be moved up into the members present.

A MOTION was made by Councilor Leary to ACCEPT the minutes from 2/21/06 as amended and was seconded by Councilor O'Connor and UNANIMOUSLY VOTED.

Town Council-2/21/06

Councilor Leary noted that under "Old Business"-James Young is listed as an Environmental Consultant and requests that this be amended to read "Environmentalist with South Shore Tri-Town Development Corporation."

A MOTION was made by Councilor Leary to ACCEPT the minutes from 2/21/06 as amended and was seconded by Councilor Kay and UNANIMOUSLY VOTED.

CITIZEN'S CONCERN/COUNCIL RESPONSE

Dominic Galluzzo-South Weymouth Naval Air Station - Notice of Project Change/Waiver

Mr. Galluzzo asked the Council to respond to citizen's concerns and issues regarding the reuse plan for the former Naval Air Station. He stated that questions posed on 11/14/05 and 12/05/05 have not been answered. He stated that it is the responsibility of this Council to keep the residents informed.

Mr. Galluzo stated that he believes that the Council should reconsider what it has done and not done. He submitted a number of documents to the Council for review which included the following:

- Questions submitted on 11/14/05
- Questions submitted on 12/05/05
- U.S. Government Accountability Office (GAO) testimony “Meeting the Energy Demands in the 21st Century”
- GAO report regarding wind power contribution and the desirable locations in the U.S. in which the Northeast is identified
- GAO report regarding impacts on wildlife, the land application documents submitted to the Navy in 2003
- Recent Boston Globe articles regarding population growth on the South Shore, the negative home sale cycle invading our region, and the wind power plans of surrounding towns
- The Massachusetts and Woods Hole Research Center Population Projections, and tonight’s questions
- A copy of a referendum petition from August of 2005 of 5000 residents seeking the right to vote on this issue

Councilor DiFazio made a MOTION to REFER these documents to the Naval Air Station Committee and was seconded by Councilor O’Connor and was UNANIMOUSLY VOTED.

COMMUNICATION FROM MAYOR, TOWN OFFICERS, AND TOWN BOARDS

Overview of Tax Title and Sale of Surplus Land Report

-James Wilson-Chief Financial Officer

-James Clarke-Director of Planning and Community Development

Mr. Clarke stated that the Council should have received a copy of the report prepared by the working group for the Mayor on Tax Title Collection and Sale of Surplus Land. He stated that the Mayor formed this working group to look at getting property back on the tax rolls. The working group is comprised of the Planning Office, the Municipal Finance Office, and the Legal Department.

Five different areas were targeted:

1. Develop a process for the identification and sale of surplus Town land.
2. Develop an aggressive procedure to accelerate the collection of delinquent real estate taxes.
3. Prioritize and pursue foreclosures of land of taxpayers who annually do not pay their real estate taxes.
4. Identify tax title parcels of low value and use the land of low value laws to acquire said properties.

5. Monitor abandoned private properties and utilize tax laws as appropriate to encourage improvements to these properties.

Mr. Clarke stated that that there have been two auctions of Town land. A third auction is planned. He noted that some of the surplus land has not been sold for conservation reasons.

Mr. Wilson stated that when the Mayor took office, there were approximately \$3.3 million in tax title properties. Those properties were held and accounted for on hand ledger sheets. Some of the records were accurate, others were not. The Mayor's intention was to bring all of those records up to date, automate them, and store them in once place. This was accomplished in FY 03, and with the assistance of an outside firm, J.E. Roberts, the process of collecting the receivables began. J.E. Roberts collected just under \$700,000 during FY 03. After this action, the Legal Office began foreclosure proceedings. Approximately \$700,000 was collected, without the need to actually foreclose

Mr. Clarke stated that the Planning Office has taken on the task of dealing with abandoned/ Vacant buildings. He noted that properties on Pond Street, East Street and Lakecrest Path have seen resolution.

Councilor Mathews asked if the Lakecrest property had been boarded up. Mr. Clarke stated that it had recently been boarded up.

Councilor Mathews questioned if a new list of abandoned/vacant buildings has been developed.

Mr. Clarke stated that the working group will meet this week and will discuss the list.

Councilor Lacey asked for clarification on two items; revenue by fiscal year and revenue earmarked to the budget. Mr. Wilson stated that not all funds are received immediately and are spread out over time. The revenue by fiscal year is what has been received. The amount earmarked to the budget is what is authorized by the Council to offset the operating expenses of the Town.

Councilor Kay asked if a large percentage of land ends up as conservation land. Mr. Clarke stated that he was not sure exactly how much.

Councilor DiFazio asked if the Amnesty Program was still available. This program was only available in 2003 and was for one year.

06 023-Water Department –Fiscal Year 2005-Unpaid Bills

A MOTION was made By Councilor Leary to REFER Item #06 023 to the Budget/Management Committee and was seconded by Councilor Mathews and was UNANIMOUSLY VOTED.

06 024-SEIU Collective Bargaining Agreement for Town Hall Employees-Free Cash

A MOTION was made By Councilor Leary to REFER Item #06 024 to the Budget/Management Committee and was seconded by Councilor Mathews and was UNANIMOUSLY VOTED.

06 025-SEIU Collective Bargaining Agreement for School Custodial Employees-Free Cash

A MOTION was made By Councilor Leary to REFER Item #06 025 to Budget/Management Committee and was seconded by Councilor Mathews and was UNANIMOUSLY VOTED.

06 026-Ordinance Change to Section 7-301 of Municipal Code-Wetlands Protection Ordinance

A MOTION was made By Councilor Leary to REFER Item #06 026 to the Ordinance Committee and was seconded by Councilor Mathews and was UNANIMOUSLY VOTED.

06 028-Appointment to Health Study Advisory Committee-Anne Marie Craman

A MOTION was made By Councilor Leary to REFER Item #06 028 to the Budget/Management Committee and was seconded by Councilor Mathews and was UNANIMOUSLY VOTED.

06 029-Appointment to Commission on Disabilities Committee-Richard Johnson

A MOTION was made By Councilor Leary to REFER Item #06 029 to the Budget/Management Committee and was seconded by Councilor Mathews and was UNANIMOUSLY VOTED.

Capital Improvement Plan-- Fiscal Year 2006 through 2011

The Mayor on 3/1/06, submitted the Capital Improvement Plan to the Council.

A MOTION was made by Councilor Leary to REFER the Capital Improvement Plan to the Budget/Management Committee and was seconded by Councilor Mathews and UNANIOMOUSLY VOTED.

Councilor Smart requested that Administration give a presentation to the Committee. Mr. Wilson agreed.

REPORTS OF COMMITTEES

Budget Management Committee – Chairman DiFazio

06 017-Appointment to Health Advisory Committee-Diane Curtis

This item was referred on 2/6/06. The Committee met on 3/6/06. The committee voted unanimously to recommend favorable action.

Ms. Curtis was present this evening.

A MOTION was made by Councilor DiFazio to APPROVE Item #06 017 and was seconded by Councilor Kay and was UNANIMOUSLY VOTED.

06 018-Appointment to Cultural Council- Michelle Desaulniers

This item was referred on 02/06/06. The Committee met on 03/06/06. The committee voted unanimously to recommend favorable action.

A MOTION was made by Councilor DiFazio to APPROVE Item #06 018 and was seconded by Councilor Mathews and was UNANIMOUSLY VOTED.

Councilor DiFazio noted that the 30 day appointment period from the time these items were referred expired yesterday 3/5/06. Because that date falls on a Sunday, the next business day is the 30th day. He noted that Administration has agreed to work with the Council to spread out future appointments.

Councilor Lacey asked for clarification on these two items and a third one, 06 022. Councilor DiFazio stated that there is an issue with all three appointments and the time period requirement. The previous two items are taken care of; however, 06 022 was tabled to await a ruling from the Town's Solicitor as to whether this individual may serve on the Redevelopment Authority and the Planning Board. He noted that although the 30 day appointment period will have passed after today, the Mayor has stated that he will not invoke this condition of the Charter.

Councilor Whitaker stated that he does not believe that the Mayor can unilaterally waive a condition of the Charter, unless the Charter itself is amended. He stated that the Council must vote on this matter this evening or the appointment goes into effect tomorrow.

Councilor Smart asked Solicitor Lane for an opinion. Solicitor Lane was not able to render an opinion at this time, as he had just arrived to the meeting.

Councilor Whitaker maintained that unless action is taken on this item this evening, the appointment becomes effective on 3/7/06.

Councilor Smart stated that this action would actually take effect on March 17, 2006.

Solicitor Lane stated that the issue is of one of two things, either the appointment is sanctioned or prohibited by the Charter; or two, a conflict of interest opinion that will be necessary. These are the matters he will look into.

Councilor Lacey questioned if item 06 022 is on a different time line than items 06 017 and 06 018. Councilor Smart stated that this is correct.

Councilor DiFazio stated that a Special Town Council Meeting may be required. Councilor Smart agreed.

Councilor Leary asked if it would be possible to approve the appointment this evening pending a ruling by Solicitor Lane.

Councilor DiFazio stated that he believes that the safest route would be to reject the appointment and start the appointment process again, once the issue has been resolved.

Councilor Smart stated that the Committee has already made a motion to table this item.

Councilor Whitaker stated that the Council may vote to relieve the Committee of the decision.

06 022-Appointment to Planning Board-Francis Hawkins

This item was referred on 02/06/06. The Committee met on 03/06/06. The committee voted unanimously to recommend to table this item in order to await a review and decision from Solicitor Lane.

A MOTION was made to REOPEN Item #06 022 and was seconded by Councilor Leary and UNANIMOUSLY VOTED.

Councilor Whitaker stated that he believes that the individual for this open position is well qualified. Although there is an issue regarding the applicant's position on two Committees, he is certain that this action can be remedied after the fact.

A MOTION was made by Councilor Whitaker to RELIEVE the Budget/Management Committee from further consideration of Item #06 022 and bring it back to the Council for a vote under Rule 39 and was seconded by Councilor Lacey.

Councilor DiFazio reviewed the situation. He stated that Councilor Mathews had identified a conflict of interest of this applicant, as he is currently a member of the Redevelopment Authority (RDA). He suggested that in good faith on representation by Mr. Wilson, the Budget/Management Committee voted to table the matter and wait for an opinion by the Solicitor as to whether a conflict of interest exists, if there was a rule which would preclude the appointment, or a Charter provision. He noted that Mr. Whitaker made some good points.

Councilor DiFazio stated the available options: proceed on the good faith gesture by Mr. Wilson that the Mayor would have no problem with an extension of the 30 day appointment period; or consider the information presented and take a vote.

Solicitor Lane stated that he did not see the Charter being a disqualification; however in the analysis of the conflict of interest – the Redevelopment Authority is an instrumentality of the Town of Weymouth for the purposes of the conflict of interest laws. There will need to be a comparison of duties of the RDA in comparison to the Planning Board.

Councilor Carey stated that if the item is approved this evening and there is in fact a conflict, Mr. Hawkins would need to resign from one of the appointed committees.

He stated that he believes that the applicant is more than qualified for this position. Councilor Mathews noted that the applicant left the Chambers under the impression that there would not be a vote this evening. It is his opinion that the item should be tabled so that the applicant may have some input into the issue. He believes that the Budget/Management Committee's vote to table should remain in place.

Councilor Shanahan stated that we should move forward with a favorable vote.

Councilor Kay questioned if Mr. Hawkins would be able to take his position, immediately, on the Planning Board, knowing that there is a potential conflict. Councilor Smart stated that a favorable vote taken this evening would mean the appointment goes into effect and Mr. Hawkins would be able to attend the next Planning Board meeting.

Councilor DiFazio suggested that the item be rejected and the Mayor resubmit the appointment.

Councilor O'Connor stated that he agrees with Councilor Mathews- that the applicant left the Chambers with the understanding that no vote would be taken. He questioned if the worst case scenario would be that the applicant would need to resign from the other committee, or would the appointment to the Planning Board be found invalid.

Councilor Smart noted that Solicitor Lane had stated that there was no conflict with the Charter. Mr. Hawkins would either have to resign from one of the committees or recuse himself from a vote where there was an apparent conflict.

Solicitor Lane stated that Councilor Smart's comment was a fair statement.

Solicitor Lane stated that there could be a problem if the member voted on an issue and there was a conflict with a duty of the Planning Board; the RDA has some powers in the long range planning field. He noted that there is overlapping jurisdiction between the two bodies that could result in the invalidation of a vote.

Councilor Leary questioned if we are still on discussion to relieve the Budget/Management Committee from further consideration of Item #06 022 and bring it back to the Council for a vote under Rule 39. Councilor Smart stated that yes, the discussion was still regarding Rule 39.

Councilor Kay asked for clarification relative to what this would accomplish. Councilor Smart stated that this brings the matter back to the full Council for a vote with a motion to approve, reject, or table.

The MOTION to RELIEVE the Budget/Management Committee from further consideration of item #06 022 and bring it back to the Council for a vote under Rule 39 PASSED on an 8-3 vote as follows:

Councilor Carey – Y	Councilor Mathews – N
Councilor DiFazio – Y	Councilor Molisse – Y
Councilor Kay – N	Councilor O’Connor – Y
Councilor Lacey – Y	Councilor Shanahan – Y
Councilor Leary – Y	Councilor Whitaker – Y
	Councilor Smart – N

Councilor Whitaker made a MOTION to APPROVE item #06 022 and was seconded by Councilor Carey.

Councilor Mathews made a SUBSTITUTE MOTION to TABLE item #06 022 and was seconded by Councilor Kay.

Councilor O’Connor questioned if there would be a need for a Special Town Council Meeting. Councilor Smart stated that this is correct. Councilor O’Connor questioned if the appointment could be rejected on the basis of the conflict concerns. Councilor Smart stated that a 2/3 majority vote is needed to reject an appointment.

The SUBSTITUTE MOTION failed.

Councilor Leary made a SUBSTITUTE MOTION to REJECT item #06 022 and was seconded by Councilor Kay. The MOTION failed on a 6-5 vote as follows:

Councilor Carey – N	Councilor Mathews – N
Councilor DiFazio – Y	Councilor Molisse – N
Councilor Kay – Y	Councilor O’Connor – Y
Councilor Lacey – N	Councilor Shanahan – N
Councilor Leary – Y	Councilor Whitaker – N
	Councilor Smart – Y

Councilor Mathews asked for a Point of Order. He stated that by Rule of the Charter, if an appointment is not rejected on an 8-3 vote, it automatically is approved. He questioned why we need to go back to the main motion. Councilor Smart stated that he believed that the main motion needed to be voted upon.

Councilor Kay stated that since the substitute motion failed; there is no overturn-- that the appointment would be automatic.

Councilor Smart stated that the original main motion PASSES. The gentleman is appointed to the Planning Board on the failure of the substitute motion.

Councilor Whitaker suggested that we go back to the main motion to positively introduce the appointee to the Planning Board, if only for formality sake.

Councilor Smart asked if there was further discussion. There was not. He asked if all were in favor of the main motion to APPROVE item #06 022. The MOTION was UNANIMOUSLY VOTED.

Ordinance Committee-Chairperson Kay

06 015-Appointment of South Shore Tri-Town Development Corporation Board Members

Councilor Kay stated that the Committee has not yet met on this item. The Committee will meet on 3/7/06. She asked for an extension to allow the Committee to report at the next meeting.

A MOTION was made by Councilor Kay to APPROVE the request to EXTEND the time for item #06 015 and was seconded by Councilor Leary and was UNANIMOUSLY VOTED.

Senior Citizens-Chairperson Kay

Information Regarding Program Availability to Assist with Utility Payments

Councilor Kay informed the Council that Representative James Murphy, and his aide Mary Jordan appeared before the Committee this evening. Representative Murphy had invited Joe Cardinal of National Grid, Maggie Sweeney and Joe Carroll of Keyspan, Beth Ann Stollo of Quincy Community Action Programs (Q-CAP), and Christine O'Toole of the Department of Telecommunications and Energy to be present also.

The goal of the Committee meeting was to gather information regarding the program availability to assist with utility payments. All present at the meeting provided vital information as to these programs. She noted that the Committee meeting was recorded and can be viewed when it is repeated on WETC.

Councilor Kay stated that she will have the information compiled into a list and made available for distribution.

Public Safety-Chairperson O'Connor

Resolution in Support of Legislation Regarding National Sex Offender Registration

Councilor O'Connor stated that the Committee met this evening. There was discussion regarding the relocation of a utility pole on Pierce Ave. The relocation is now in process.

Councilor O'Connor stated there is currently Bill # 108 in the United States Senate. Councilor O'Connor read a resolution in support of this Bill. He stated that the Committee voted to recommend unanimous favorable action on this resolution in support of Senate Bill #108-- Legislation regarding National Sex Offender Registration.

Councilor O'Connor made a MOTION to APPROVE the Resolution in Support of Legislation Regarding National Sex Offender Registration and was seconded by Councilor Kay and UNANIMOUSLY VOTED.

ADJOURNMENT

At 9:05 there being no further business, Councilor Leary MOTIONED to adjourn and Councilor Mathews seconded and was UNANIMOUSLY VOTED.

Approved by: _____
Michael Smart, President