

***Town Council Meeting
April 20, 2010 at 7:30 PM
Town Council Chambers***

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

Not Present: Victor Pap

Also Present: George Lane, Town Solicitor
Maureen Duffy, Town Auditor
Frank Fryer, Town Clerk
Kathy Deree, Assistant Town Clerk
Michael Gallagher, Director of Administrative & Community Svcs.
James Wilson, Chief Financial Officer
Sandra Williams, Vice President of the Planning Board

President Mathews called the Town Council Meeting to order at 7:32 PM.

Following the Pledge of Allegiance, Town Clerk Frank Fryer conducted roll call with Councilor Pap absent. President Mathews noted that he had spoken with Councilor Pap who is not feeling well.

Announcements:

President Mathews announced that the Annual Town Meeting/Town Council Meeting will be held on May 17, 2010 at 7:00 PM at the Abigail Adams Auditorium.

Councilor O'Connor announced that those who sustained losses in the recent floods, can initiate the application for assistance process by calling the FEMA tele-registration numbers 1800-621-3362 or 1800-4627575 (TTY) or registering online at www.fema.gov. He further noted that a Public Safety Committee meeting has been scheduled for May 3, 2010 at 6:45 PM regarding Route 3A, speeding and accidents.

Councilor Molisse noted a Town Cleanup Day scheduled for Saturday, May 8 from 9-12. Volunteers are needed to remove trash and debris from parks, playgrounds and neighborhoods. The DPW will provide gloves and bags and will pick up the debris throughout the event.

Councilor Conlon made an announcement on behalf of Councilor Pap. The North Weymouth Civic Association will host an open house on Thursday, May 13 at 7:00 at the Whipple Center. He commended the efforts of constituents in attending the Fore River Bridge Meeting.

Councilor Conlon displayed a painting by artist, Bill Beyer, which will raise funds for Legion Field. The cost is \$100 plus tax—he encouraged any interested parties to contact the Mayor's Office in order to purchase.

Councilor DiFazio announced that the 2nd annual Taste of Weymouth will take place at Weymouth High School on April 29 at 6:30 PM. The charge is \$5.00 per person. Additionally, the Budget/Management Committee will begin its review of the fiscal year 2011 budget on April 26 and the schedule is available on the town's website.

President Mathews announced a Special Town Council Meeting to be held on April 27 at 7:30 to vote a rezoning measure which is included in the town's up and coming auction.

Minutes:

Economic Development Committee Meeting Minutes of 30 March 2010

Councilor O'Connor motioned to table the minutes, motion seconded by Councilor Smart and voted unanimously.

Resident and Community Comment

Tax Increment Finance Agreement Between the Town of Weymouth and Sithe Fore River Development, LLC.-Irving Murstein of 463 Broad Street

Mr. Murstein recommends that Sithe pay an additional 4 million dollars as part of the TIF agreement with the town. He noted that the cost is 392 million under contract law and the actual cost is 4X more. He suggests re-negotiation of the contract and hopes that the Council will send this suggestion to a committee for investigation.

Councilor Smart motioned for referral to the Budget/Management Committee, Councilor DiFazio recommends referral to Economic Development. President Mathews noted that this is financial in nature and although the Budget/Management Committee is in the midst of reviewing the budget, feels it is the proper referral. It was noted that a member of the Budget/Management Committee could be assigned to start the review of this. Motion seconded by Councilor Smart and voted unanimously.

Public Meetings-Robert Montgomery Thomas of 848 Washington Street

Mr. Thomas addressed the Council regarding his attendance at a recent Rules Committee Meeting, at which he felt as a constituent that he was unwelcome and not able to provide suggestions to the committee, as he was invited to do by the committee chair.

He feels that the public is disengaged and not able to speak/make suggestions at public meetings.

Mr. Thomas further noted that he presented his revision of the Charter to the Town Council President which was decreased from 56-44 pages and will save substantial printing costs for the town.

President Mathews confirmed to Mr. Thomas that committee meetings are public meetings and not public hearings. Constituents are not prohibited from submitting comments/questions to the Town Council Office for delivery to the respective committee chair. It is up to the chair if individuals are allowed to speak or if the issues cited are addressed simply by the committee.

Solicitor Lane confirmed that the Council is in compliance with open meeting law and as far as public comment is concerned we have successfully obeyed the letter of the law.

Public Hearings

7:35 PM (continued from April 5) 10 015-Proposed Rezoning for Randall Avenue

Councilor O'Connor motioned to open the public hearing, noted that this was published on 3-17 and 3-24, motion seconded by Councilor Smart and voted unanimously. Mr. Wilson noted that this is a 59,000 square feet of property, currently zoned as open space (POS) and the request is to rezone to R-1 residential. Sandra Williams, the Vice President of the Planning Board read the Planning Boards' summary which stated that the Planning Board held public hearings on both April 5 and 12th and deliberated and voted favorable action on April 12, 2010 for the rezoning request.

Comment from the public was:

Mr. Robert Thomas of 848 Washington Street noted that the pcb's would be alright if covered with pavement but was wondering if any consideration has been given to preexisting dangers to that area. President Mathews noted that the test cites confirmed that samples are acceptable and additionally confirmed that the DEP approved.

Councilor O'Connor motioned to close the public hearing, motion seconded by Councilor Smart and voted unanimously.

7:36 PM 10 014-Sale of Town Owned Land-Randall Avenue

Councilor O'Connor motioned to open the public hearing, noted that this was published on 4-10-2010, motion seconded by Councilor Smart and voted unanimously.

Mr. Wilson cautioned that this measure is subject to executive session in that on April 27 at 10:00 am, an auction, of which this property is included, will take place at Town Hall.

President Mathews asked if there were any comments from the public, to which there was no response.

Councilor O'Connor motioned to close the public hearing, motion seconded by Councilor Smart and voted unanimously.

Communications and Reports from the Mayor, Town Officers and Town Boards

10 033-Reappointment to the Cemetery Commission – Donald Mathewson

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Donald Mathewson of 9 Regatta Road, Weymouth, MA to the Cemetery Commission.

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

10 034-Reappointment to the Community Events Committee – Barbara Farrell

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Barbara Farrell of 162 Middle Street, Weymouth, MA to the Community Events Committee. Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Smart and voted unanimously.

10 035-Reappointment to the Community Events Committee – Ron Rizzo

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Ron Rizzo of 164 Pearl Street, Weymouth, MA to the Community Events Committee.

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

10 036-Reappointment to the Conservation Commission – George Loring

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints George Loring of 146 Pine Street, Weymouth, MA to the Conservation Commission.

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

10 037-Reappointment to the Cultural Council – Debbie Courteau

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Debbie Courteau of 201 Lake Street, Unit #34, Weymouth, MA to the Cultural Council.

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

10 038-Reappointment to the Historical Commission – Phil Smith

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Phil Smith of 250 West Street, Weymouth, MA to the Historical Commission.

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

10 039-Reappointment to the Board of Library Trustees – Charles Hickey

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Charles Hickey of 896 Middle Street, Weymouth, MA to the Board of Library Trustees.

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

10 040-Reappointment to the Memorial Committee – Joan Anderson

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Joan Anderson of 61 Webb Street, Weymouth, MA to the Memorial Committee.

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

10 041-Reappointment to the Planning Board – Sandra Williams

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Sandra Williams of 61 Heritage Lane, Weymouth, MA to the Planning Board.

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

10 042-Reappointment to the Planning Board – Paul Hurley

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Paul Hurley of 49 Courier Street, Weymouth, MA to the Planning Board.

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

10 043-Reappointment to the Zoning Board of Appeals as an Alternate Member – Martin Joyce

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Martin Joyce of 135 Academy Avenue, Weymouth, MA to the Zoning Board of Appeals as an alternate. Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Smart and voted unanimously.

10 044-Reappointment to the Zoning Board of Appeals as an Alternate Member – Kemal Denizkurt

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Kemal Denizkurt of 33 Circuit Road, Weymouth, MA to the Zoning Board of Appeals as an alternate. Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Smart and voted unanimously.

10 045-Reappointment to the WETC – Glenn Heath

Mr. Wilson requests, on behalf of the Mayor, that the Town of Weymouth re-appoints Glenn Heath of 44 Wood Avenue, Weymouth, MA to WETC. Councilor O'Connor motioned for referral to the Budget/Management Committee, motion seconded by Councilor Smart and voted unanimously.

Reports of Committees

Ordinance Committee -Chairman Michael Smart

10 013-Amendment to Section 3-209 (Cultural Council) of the Code of Ordinances

Chairman Smart stated that this was referred to his committee on March 1, 2010, and a public hearing was held on April 5, 2010. The Ordinance Committee voted 4-0 recommending favorable action to reduce the Cultural Council Committee from 9-7 members as it is difficult to recruit members in addition to having quorums for meetings. Chairman Smart motioned for favorable action on measure number 10 013, motion seconded by Councilor O'Connor and voted unanimously.

Budget/Management Committee-Chairman Kenneth DiFazio

09111-External Audit Proposals for Fiscal Year 2010-2014

Chairman DiFazio noted that Section 6-11 of the Town Charter states that the Budget/Management Committee is responsible for making a recommendation to the Town Council regarding awarding of an independent audit contract.

In August of 2009, five RFP's were sent to auditing firms. This measure was referred to the Budget/Management Committee on 10/5/2009.

Ms. Duffy reported that in November 2009 she received five RFP's to which all companies successfully met the proposed requirements. She is recommending Malloy, Lynch, and Bienvenue due to both their experience and price. She also mentioned that they would be willing to only charge an hourly rate if the workload is less than anticipated.

Additionally, she asked the Council to bear in mind that the budgeted amount for the external audit for fiscal year 2011 is \$47,000 –with only one firm's proposal below that figure. She noted that if the Council opts for a higher priced firm, additional funding will be needed.

Councilor DiFazio noted that the Budget/Management Committee met on November 9, November 23, February 1, March 1 and April 20, during which time the committee requested that firms are contacted to ascertain if they are able to supply additional services. Additionally, the committee requested that Conflict of Interest Forms be sent to all firms for completion. Councilor DiFazio noted that the committee voted favorable action 3-2 for awarding of the external audit contract to Malloy, Lynch and Bienvenue. He further confirmed that Ms. Duffy concurs with the committee's vote.

Chairman DiFazio motioned on behalf of the Budget/Management Committee for awarding of the external audit contract for 3 years to Malloy, Lynch and Bienvenue-motion seconded by Councilor Molisse.

Councilor Smart stated that he was one of the dissenting votes at Budget/Management as he feels that Malloy, Lynch and Bienvenue do not have sufficient experience with a city form of government.

Councilor Smart made a substitute motion that Melanson Heath and Company are awarded the external audit contract for a 3 year period, motion seconded by Councilor O'Connor.

Councilor McDonald spoke to the fact that a \$10,000 difference in price is substantial in these trying fiscal times. Malloy, Lynch and Bienvenue have been in business for a long time and have received favorable recommendations. He further suggested granting a 1 year contract on a trial basis.

Councilor O'Connor noted that he voted favorably at committee for Malloy, Lynch and Bienvenue and believes that we cannot disregard one nickel in this budget and further noted that Ms. Duffy was charged with reviewing the RFP's and has noted that the cost savings could potentially be in excess of \$10,000 should the workload be less than anticipated.

Councilor Molisse supports Malloy, Lynch and Bienvenue not simply because of cost but due to the fact that the internal auditor recommended them and they are a reputable firm.

Councilor Smart does not discount their experience, tier I experience is critical and he asks that the Council consider his substitute motion, additionally he noted that only 1 principal owner at Malloy, Lynch and Bienvenue completed the COI form as requested.

President Mathews noted his support of the substitute motion and noted that Melanson Heath and Company's proposal decreases over time.

The roll call vote on the substitute motion to award a three year contract to Melanson Heath and Company was as follows:

Robert Conlon-Yes
Kenneth DiFazio-No
Ed Harrington-Yes
Thomas Lacey-No
Brian McDonald-No
Michael Molisse-No
Michael Smart-Yes
Kevin Whitaker-Yes
Patrick O'Connor-No
Arthur Mathews-Yes

5-5 (tie vote fails). Motion reverts back to original (3 year contract to Malloy, Lynch and Bienvenue).

Roll call vote as follows:

Robert Conlon-No
Kenneth DiFazio-Yes
Ed Harrington-No
Thomas Lacey-Yes
Brian McDonald-Yes
Michael Molisse-Yes
Michael Smart-No
Kevin Whitaker-No
Patrick O'Connor-Yes
Arthur Mathews-No

5-5 (tie vote fails).

Councilor O'Connor motioned to table measure number 09 111 until the 3 May 2010 meeting. Councilor McDonald noted that he will not be in attendance at that meeting and therefore a potential of running the risk of a tie again. Councilor O'Connor withdrew his motion to table the measure.

Councilor O'Connor motioned that the Auditor send correspondence to all firms for pricing on a one year contract, motion seconded by Councilor Smart. Councilor O'Connor amended the motion to include that all principals of all five firms submit and complete a COI, amended motion seconded by Councilor Smart.

Ms. Duffy duly noted that this is not usual practice and typically only principals and those assigned to the audit complete the COI.

Roll call vote on the motion:

Robert Conlon-Yes
Kenneth DiFazio-No
Ed Harrington-Yes
Thomas Lacey-No
Brian McDonald-Yes
Michael Molisse-No
Michael Smart-Yes
Kevin Whitaker-No
Patrick O'Connor-Yes
Arthur Mathews-Yes

Passes 6-4.

10 014-Sale of Town Owned Land-Randall Avenue (discussion necessitates executive session)

Councilor DiFazio motioned for executive session to consider the purchase, exchange, lease or value of real property—to convene in open session for purposes of adjournment, motion seconded by Councilor Molisse and voted unanimously.

Roll call vote for entering executive session-taken at 8:55 PM:

Robert Conlon-Yes
Kenneth DiFazio-Yes
Ed Harrington-Yes
Thomas Lacey-Yes
Brian McDonald-Yes
Michael Molisse-Yes
Michael Smart-Yes
Kevin Whitaker-Yes
Patrick O'Connor-Yes
Arthur Mathews-Yes

(Executive Session Minutes will be completed separately and will not be released until the matter at hand is completed.)

The Town Council reconvened in open session at 9:25 PM and with no further business to attend to, Councilor O'Connor motioned for adjournment, motion seconded by Councilor Smart and voted unanimously.

Respectfully submitted by Diane T. Hachey as recording secretary

Approved by Council President Arthur Mathews