

**MINUTES OF THE  
SPECIAL TOWN COUNCIL MEETING**

**May 25, 2004**

**PRESENT:** TJ Lacey (President), Michael Smart (Vice President), Ken DiFazio, Greg Hargadon, Paul Leary, Arthur Mathews, Colin McPherson, Michael Molisse and Greg Shanahan

**ABSENT:** Sue Kay and Joe Connolly

**OTHERS:** Franklin Fryer, Richard Swanson, Jane Hackett and Jim Wilson

President Lacey called the Special Town Council Meeting to order on May 25, 2004 at 7:30 p.m. in the Council Chambers

**COMMUNICATIONS FROM THE MAYORS OFFICE**

*Mayor David M. Madden addressed the Council regarding DEP Issues*

The Town of Weymouth is under DEP administrative consent orders for a number of issues dating back to 1988. There are two categories. First is contracts 1 through 5 and the second is the removal of Inflow and Infiltration. Recently the Town Council has appropriated \$11 million towards these problems. Unfortunately DEP feels Weymouth is not working quickly enough and has issued a fine against us for \$25,000. Nothings has angered Mayor Madden more than this. Over the last 5 years we have demonstrated our commitment to these improvements.

Most of last year was spent in obtaining permits. Contracts 1-5 deal with improving our infrastructure by being able to increase the capacity of our system. I/I deals with the removal of water that is seeping into it through ground water or leaking manholes. Contracts 1-5 needed a permit from the Army Corp of Engineers. This was not received until November 2004. In order to get that we also needed a permit from DEP on water quality which we received in October 2004. Immediately in November we went forward with two contracts, Essex Street was one of them. We have no disagreement with DEP in terms of the work that is going to be done. They have approved the process along the way. Their complaint is lack of communication from November till March 2004. In March 2004 they made a schedule of the projects and asked for a meeting with DEP to present the information along with Jim Wilson, Director of DPW, Superintendent of Water & Sewer, our consultants and DEP. A key in putting these projects forward is understanding the impact on the community and residents. Under DEP time frame, in January of 2004 there would have been a rate increase ranging from 15-20%. The plan the Mayor presented allows us to continue to stabilize our sewer rates yet do the projects in manner that is affordable to the residents of this community. The residents needed to be made aware of the impacts of these projects as they are running through their front and back yards. This does not happen over night. He is committed to getting these projects

done but at the same time is aware of the impact of these people's lives both financially and in their quality of life.

Two weeks ago they received the letter stating that Weymouth was being fined \$25,000 but at the same time told it could have been \$250,000. A week later the Mayor received a letter from DEP stating that they agree with his new schedule but are still fining us because we haven't kept to the old schedule. The Mayor finds this an abuse of power that serves no purpose. This money could be put towards something else. The projects will not get done any sooner; it is just a fine for a fine sake. The Mayor has sent a letter to DEP raising his objections. DEP has been fully informed of what has been happening. There have been some disputes on how things were handled. Example: In Contract #3 there was a need to get a piece of land on Libbey Parkway owned by a property owner for us to build the pumping station. In March we received an agreement with this property owner where he would transfer the land to the town at no cost. This took many months of negotiations. DEP felt Weymouth should have moved forward and taken it on Eminent domain even if it costs us money. Mayor Madden felt that was irresponsible when we had a friendly taken. DEP said their concern is to get the projects done; not the money but the financial part of this is Weymouth's concern.

There was a public event hosted by Lieutenant Governor Heally back in January and the Mayor raised the point to her that Federal regulators are pushing issue down onto state regulators and the state is pushing it down onto local communities and we really have not place to go and when we don't do what they say they sentence us with fines. Her response was in this day and age and time, now is now the time for the state to be threatening local communities with fines. And the Mayor doesn't believe DEP should be either. He will work hard to resolve this but nothing has angered him more over the past 4 years. To put it into perspective since FY02 this council has approved over \$25 million dollars to improvements to its sewer system. For anyone to doubt our commitment is way off base.

Councilor McPherson said his understanding is that DEP is unhappy because we didn't adhere to the original schedule and that was due to the issuing of permits. Mayor replied that is correct, the permits were 6 months behind.

Councilor McPherson also said we wanted to design the system for a 5-10 year storm and DEP wouldn't allow us to design to prevent these overflows that they want to eliminate. They want to keep the systems small to keep in with their theory that there shouldn't be growth in the community. Mayor Madden said that is correct, we are required to design our system for a 1 year storm.

Councilor Hargadon commented that the town has gone forward 50 times better than he anticipated. For DEP to fine Weymouth is ridiculous.

Mayor Madden said there are so many other issues than sitting in an office and developing a schedule. The impact of neighborhoods and the ability to manage all these

projects. We are looking at hiring someone just for that. ACO work is not the only work happening in town. The Fort Point Road project to remove I/I from the system is voluntary work we are doing.

Councilor Shanahan said he is outraged. This fine is arbitrary at best. Weymouth should be applauded for our efforts not fined. He supports the mayor.

Mayor Madden said a year ago we received a letter from DEP praising the town for the work that we have been doing. Also other town upon the direction of DEP has asked us how things work.

Councilor Leary said if we had more funds it wouldn't be so difficult to comply with all these things and admires the Mayor for not using this as an excuse.

Councilor Mathews said he has heard in seminars that DEP is using Weymouth as a role model example to show other communities how to work on their sewer infrastructure. He questioned if they fine the MWRA when they are behind and there are many other communities out there that haven't met their time schedules.

President Lacey echoes these comments and is disappointed on this news. DPW is doing a phenomenal job and he hopes this won't impact the moral.

Mayor Madden said that Marilyn Morris conducted a meeting for DEP and she reminded Mayor Madden of the importance of these projects to which he replied he needed no reminder that he was well aware of the importance and is committed to getting the job done despite these actions from DEP.

## **REPORTS OF COMMITTEES**

*Budget/Management Committee: Chairman DiFazio*

### **04 131 – Appointment of Town Clerk, Franklin Fryer**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action.

Councilor DiFazio MOTIONED to approve measure # 04 131 in accordance with section 2-8 of the Weymouth Home Rule Charter, TJ Lacey submits the name of Franklin Fryer to be appointed as Town Clerk for a term of 3 years to expire on June 18, 2007.

Councilor Hargadon seconded. VOTED UNANIMOUSLY

**04 109 – Re-appointment to Board of Zoning Appeals, Richard McLeod**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/3/04 and the committee met on 5/17/04 and on 5/20 recommended favorable action 4-1 with Councilor Molisse disapproving.

Councilor DiFazio MOTIONED to approve measure # 04 109 the reappointment of Richard McLeod to the board of Zoning Appeals. His term will expire on June 30, 2006. Councilor Leary seconded.

Discussions:

Councilor Mathews stated that the current perception of the BZA is not good. It is one of the most important boards and he has received complaints that constituents are not being heard at public hearings. One of problems is too many public hearings at one night. He hopes in the future he will not be confrontational with people's opinion and will listen to constituents. He will not be supporting this appointment.

Mr. McLeod stated his comments were well accepted. Is in a very difficult board and the agenda is planned by the Planning Department and he is willing to work on this with them. In many occasions there is not enough time to listens to everyone. Sometimes routine items are at the end of the agenda. At a contentious meeting he usually lets councilors, heads of civic organizations and then individuals speak.

Councilor Mathews agreed the agendas are too full. He suggested lightening up the agendas and letting everyone speak, even if they all have the same comments. Everyone should be allowed the opportunity to speak.

Councilor Leary said his concern with the entire board and the way they operate. The perception is that out of town developers are treated more fairly than in town people on a commercial basis. If there are conflicts in the bylaws or ordinances then it is up to the Planning Board to come to the Town Council. Developers seem to get whatever they want. Mr. McLeod disagreed with this.

Councilor Leary said that Alexan at Harbor Hill was rejected by the town of Weymouth 6 times and the 7<sup>th</sup> time it was approved because a judge made a ruling. The residents were not treated fairly during these hearings. Mr. McLeod said their decisions are subject to review by a court and he may not be in agreement with the judge. Councilor Leary stated it was Zoning Board that made the decision to go forward, not the judge.

Councilor Smart said he was concerned with the way he conducts these hearings as he responds sometimes with a cross examination approach. He suggested that Mr. McLeod be more compassionate and understanding to their issues and quality of life. Mr. McLeod replied that sometimes he does that to help them out with what they really should be saying, not to cross examine them.

Councilor Molisse said people are not happy; they are not able to view their concerns. It doesn't matter if there is 10 or 50 people talking about traffic, you should let them all speak. He also believes the members should be going out to look at the site. He will not be supporting this appointment.

Councilor McPherson said the Town Council should look into the zoning by laws of the town to see if they make sense. He will be supporting this appointment however he is not saying everything is perfect. He also believes this is the toughest board to be on.

Councilor Shanahan is troubled. When a resident comes to speak they need to be heard. He cannot support this reappointment.

Councilor Hargadon reminded him and all boards that they serves the people, and work for the people. He will be supporting this reappointment.

Councilor DiFazio said the recodification of the zoning by laws expects to have a proposal around September. He has not received any negative comments concerning Mr. McLeod's performance. Some of these problems voiced this evening should be more in line with the committee as a whole. He will be supporting this appointment.

President Lacey said he will be supporting this appointment and hope he takes these comments under consideration.

Roll Call:

Connolly – Absent	DiFazio – Yes	Hargadon – Yes	Kay – Absent
Leary – Yes	Mathews – No	McPherson – Yes	Molisse – No
Shanahan – No	Smart – No	Lacey – No	

VOTED 5-4 Passes

**04 121 – Yr End RFT of \$116,330 for the School Department Special Education**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action. On the 20<sup>th</sup> additional information was supplied by the school committee. The total deficit for SPED and others was \$546,000, the school department was able to appropriate \$196,195 within its own budget plus two reimbursements totaling \$165,060 leaving a shortfall to date of \$185,128.

Councilor DiFazio MOTIONED to approve measure # 04 121 that the town of Weymouth re-appropriate the sum of \$116,330 from the Reserve Fund to the School Department Budget for purposes of paying FY04 SPED expenses. Furthermore, that the sum of \$68,798 be re-appropriated from Fund # 02202000 FY03 SPED expenses to the School Department budget for the purpose of paying FY04 SPED expenses. Councilor Leary seconded.

Discussions:

Councilor McPherson said next years budget will be \$700,000 more than this year's budget. Property taxes are budget to only go up \$1.8 million and \$700,000 will be going to SPED. The town cannot absorb these increases. The state has to do something about this program. It's a big problem and he want to make the public aware of it. VOTED 9-0  
**04 122 – Yr End Appropriation of \$224,591.71 from Free Cash for Snow Removal**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action. It was indicated from Mr. Wilson that even though we received \$175,000 from the state the total for the year was \$420,075.

Councilor DiFazio MOTIONED to approve measure # 04 122 that the town of Weymouth raise and appropriate the sum of \$224,591.71 from free cash for the purpose of funding the snow removal deficit program 0620 (snow removal budget) in department 410 DPW. Councilor Leary seconded.

Discussion:

Mr. Wilson reminded the council that this is a free cash appropriation that requires a public hearing pursuant to our charter. The public hearing has not been had yet.

President Lacey said there are two free cash items before us this evening 04 122 and 04 123 and they have been scheduled for a public hearing on June 7, 2004 therefore we can not vote on these this evening.

Councilor McPherson made a substitute motion to table this measure 04 122. Councilor Smart seconded. VOTED 9-0

**04 123 – Yr End Appropriate \$25,000 from Free Cash for Weymouth Day**

Councilor DiFazio MOTIONED to table measure # 04 123. Councilor Smart seconded. VOTED 9-0

**04 124 – Yr End RFT of \$14,051.25 for Fire Department Recording Device**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action. This replaces measure # 04 093.

Councilor DiFazio MOTIONED to approve measure # 04 124 that the Town of Weymouth re-appropriate the sum of \$14,051.25 from the Reserve Fund to Fund 0002 for the purpose of purchasing the telephone recording system for the Fire Department Headquarters. Councilor Smart seconded. VOTED 9-0

**04 125 – Yr End RFT of \$4,000 for Health Department Expenses**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action. The reason is a very tight 04 budget.

Councilor DiFazio MOTIONED to approve measure #04 125 that the Town of Weymouth transfer the sum of \$4,000 from the Reserve Fund to the Health Department, administrative expense line item 15104405.578103 for the purpose of funding administrative expense for the remainder of the fiscal year. Councilor Smart seconded. VOTED 9-0

**04 126 – Yr End RFT of \$12,607 to remove oil tank at Broad Street fire station.**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action. This is at the Weymouth Landing fire station which was removed at the sale of the fire station. This was part of the P&S Agreement.

Councilor DiFazio MOTIONED to approve measure #04 126 that the Town of Weymouth transfer the sum of \$12,607 to Fund 0002 for the purpose of removing the oil fuel tank at Broad Street Fire station. Councilor Mathews seconded. VOTED 9-0

**04 128 – Yr end – re-appropriate \$6,000 for MMA Chief's Exam**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action. This exam took place of February 2004, the final bill was \$12,000 and they already had \$6,000.

Councilor DiFazio MOTIONED to approve measure #04 128 that the Town of Weymouth re-appropriate the sum of \$6000 from the Reserve Fund to the Police Department administrative expenses line item 13104405.578103 to pay for ½ the cost of the MMA Chief's exam given in February 2004. Councilor Mathews seconded. VOTED 9-0

**04 129 – Yr End RFT of 12,000 for Fire Department Expenses**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action.

Councilor DiFazio MOTIONED to approve measure #04 129 that the Town of Weymouth transfer the sum of \$12,000 from the Reserve Fund to the Fire Department

Expense budget vehicle maintenance line item number 13204452.524112. Councilor Smart seconded. VOTED 9-0

**04 130 – Yr End RFT of \$38,500 for Maintenance of Town Hall Expenses**

Chairman DiFazio reported that this measure was referred to the budget/management committee on 5/17/04 and the committee met on 5/20/04 and unanimously recommended favorable action. This was attributed to the cold winter.

Councilor DiFazio MOTIONED to approve measure #04 130 that the Town of Weymouth transfer the sum of \$38,500 from the Reserve Fund to the Maintenance of Town Hall Program 0880, category 074 (expense – Maintenance of buildings, McCullough and Town Hall). Councilor Smart seconded. VOTED 9-0

**04 088 – Operating Budget Water FY05**

**04 089 – Operating Budget Sewer FY05**

**04 087 – FY05 General Government Operating Budget**

President Lacey said the council will be deliberating and debating this budget over the next 2-3 weeks. He thanked the budget/management committee for their review. All Councilors received a copy of the report from committee. He would like the council to accept this report and presentation from Councilor DiFazio and then go into Town Council comments. Any additional correspondence and requests are to go through President Lacey by Friday to co-ordinate for Friday's packets.

Chairman DiFazio reported that attached to the full Town Council which has a highlight of the review process.

Councilor Smart MOTIONED to accept the report from the budget/management committee. Councilor Shanahan seconded. VOTED 9-0

Councilor Leary MOTIONED to add an additional agenda item. Councilor Smart seconded. VOTED 9-0

Councilor Mathews distributed a letter to the town council regarding the closing of St. Albert's Church and the zoning of this parcel. He requested the Planning Board recommend rezoning for this parcel. He wants the town council to be proactive on this parcel.

Councilor Mathews MOTIONED to refer this issue to the ordinance committee. Councilor Smart seconded. VOTED 9-0

Special Town Council Meeting  
May 25, 2004  
Page 9 of 9

**ADJOURNMENT**

Councilor Hargadon MOTIONED to adjourn at 9:01 p.m. Councilor Smart seconded.  
VOTED 9-0

Respectfully submitted by,

Lee Hultin, Recording Secretary

Approved by: \_\_\_\_\_