

MINUTES OF THE TOWN COUNCIL
Town Hall Council Chambers
June 7, 2010 - Monday

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

Also Present: Franklin Fryer, Town Clerk
Kathleen Deree, Assistant Town Clerk
George Lane, Town Solicitor
James Wilson, Chief Financial Officer
Richard Swanson, Interim Auditor
Robert Leary, Chief, WFD
James Clarke, Director of Planning and Development

Recording Secretary: Mary Briggs

President Mathews called the Town Council Meeting to order at 7:37 PM. Town Clerk Franklin Fryer called roll, with all members present.

ANNOUNCEMENTS

Joint Citation Issuance to Colleen Kelley for "Unsung Heroine of Massachusetts Award"-Councilor Thomas J. Lacey and Mayor Susan M. Kay

Councilor Lacey and Mayor Kay presented Colleen Kelley, President of the Homestead Landing Civic Association, with a joint citation. Councilor Lacey read the citation which was presented for her efforts in public service to the town. Mayor Kay noted she attended the state ceremony and was very pleased for Colleen. Ms. Kelley thanked everyone and received an ovation.

Ordinance Review Committee Designation-President Arthur Mathews

President Mathews noted that in accordance with the charter, he and the Mayor are charged with appointing a 9-member committee; 4 appointed by the Council President and 5 appointed by the Mayor to review the town Code of Ordinances. President Mathews noted that his four appointees are comprised of two active Council members and two town residents who are registered voters. He advised any resident who is

interested to submit a letter of interest to the Town Council Office by July 25, 2010.

MINUTES

Rules Committee meeting, April 5, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 10, 2010 meeting of the Rules Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Budget/Management Committee meeting, April 5, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 5, 2010 meeting of the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Ordinance Committee meeting, April 5, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 5, 2010 meeting of the Ordinance Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Town Council Meeting, April 5, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 5, 2010 meeting of the Rules Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Budget/Management Committee Meeting , April 20, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 20, 2010 meeting of the Town Council and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Town Council Meeting, April 20, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 20, 2010 meeting of the Rules Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Ordinance Committee Meeting, April 26, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 26, 2010 meeting of the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Budget/Management Committee Meeting , April 26, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 26, 2010 meeting of the Town Council and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Special Town Council Meeting, April 26, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 26,

2010 Special Town Council Meeting and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Education Committee Meeting, April 29, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of April 29, 2010 meeting of the Education Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Budget/Management Committee Meeting, May 3, 2010

A MOTION was made by Councilor O'Connor to TABLE the minutes of May 3, 2010 meeting of the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Town Council Meeting, May 3, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of May 3, 2010 meeting of the Town Council and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Budget Management Committee meeting, May 5, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of May 5, 2010 meeting of the Budget/Management Committee and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Budget/Management Committee Meeting, May 10, 2010

A MOTION was made by Councilor O'Connor to APPROVE the minutes of May 10, 2010 meeting of the Budget/Management Committee and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

PUBLIC HEARINGS

10 062-Free Cash Appropriation-Police Department Car-\$35,000

A MOTION was made by Councilor O'Connor to OPEN the public hearing on item 10 062 and was seconded by Councilor Smart. This public hearing was published on May 28, 2010. UNANIMOUSLY VOTED.

Mr. Wilson noted this measure is a free cash appropriation for the purpose of purchasing a new vehicle for the Police Department. There is a balance currently in free cash of \$197,493. Chief Grimes provided additional information as to the need for the car and the type he wishes to purchase. The Chief noted that last fall he was able to purchase four vehicles for the fleet through capital funding and grants. The current purchase is to replace a front line car which has 100,000 miles. The purpose is to keep the five front line cars, those which are driven every shift, every day, in the best condition. He is looking to purchase a Dodge Charger model. The department currently has one in the traffic division. The 2011 year will be the last of the production of the Crown Victoria Ford Interceptor line that has been the mainstay of police departments. The Dodge will be put in the front line to see if it will measure up.

Councilor Smart asked about the safety rating of the Charger. He also asked if the Ford Interceptor is coming back into production in 2012. The Chief noted that there is a large percentage now of Dodge chargers in departments. Parts are readily available and will be over the life of the vehicle. The size of the Charger is comparable to the Crown Victoria. He noted Ford is reintroducing the Interceptor line, but the new model is built on the Taurus chassis, has front wheel drive and a V-6 engine, which the Chief feels is questionable for police work. The Dodge is police-rated.

Linda MacDonald of 58 Laurel Street questioned the typical manner of purchasing police vehicles and inventory listing of vehicles. Councilor Smart noted as a point of order that these specific questions were asked by him at the committee level.

There was a brief discussion of the general condition of the department fleet, and how it compares to other departments. Chief Grimes noted that the fleet is acceptable at the moment.

Interim Auditor Swanson reminded the Council that while he was Internal Auditor, an annual inventory was made of both the police and fire departments. He plans to perform another inventory.

A MOTION was made by Councilor O'Connor to CLOSE the public hearing and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

10 063-Free Cash Appropriation-Police Department Report Filing System-\$17,000

A MOTION was made by Councilor O'Connor to OPEN the public hearing on item 10 063 and was seconded by Councilor Smart. This public hearing was published on May 28, 2010. UNANIMOUSLY VOTED.

Mr. Wilson reported on the request for a free cash appropriation for the purpose of funding an interactive internet-based police report filing system. At the time of this request, there was \$197,493 remaining in free cash. Chief Grimes noted that this is a software program whereby the public can report crimes to the department. Many are reported for insurance purposes or notification. These reports will communicate with the department's software for dispatching and date reporting. Reports will be reviewed daily, and appropriately dispatched or placed on file. The advantage is to continue to deliver efficient service to the public in a timely manner. The service includes a one year maintenance contract. This system is currently in use by departments in Fall River, Natick and Peabody.

Councilor McDonald asked how the department could inform the public that this feature will be in place, such as an insert in a water bill mailing. The Chief noted they were always looking for topics for a WETC program, and dispatch can also pass along the information as these non-emergency calls come in to the department.

A MOTION was made by Councilor O'Connor to CLOSE the public hearing and was

seconded by Councilor Smart. UNANIMOUSLY VOTED.

10 066-Appropriation \$500,000 Sewer Retained Earnings-Hinston Road

A MOTION was made by Councilor O'Connor to OPEN the public hearing on item 10 066 and was seconded by Councilor Smart. This public hearing was published on May 28, 2010. UNANIMOUSLY VOTED.

Mr. Wilson reported that this is an appropriation of \$500,000 from sewer retained earnings for the repair and replacement of an 18" sewer pipe. The balance in the sewer retained earnings account at the time of this request is \$1,856,592.

Michael Chiasson, Superintendent of the Water and Sewer Division, reported on the need for the appropriation. He noted that the existing pipe initially collapsed during the March rainstorms, and a 2500' section of pipe on Hinston Road needs to be replaced—the design process has not yet been completed.

Councilor Smart reported that this was reviewed in depth at the committee level. A brief explanation of the type of replacement and the cost, which are contingent on the investigation and design was stated.

A MOTION was made by Councilor O'Connor to CLOSE the public hearing and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

10 067-Appropriation \$600,000 Water Retained Earnings-Washington Street Culvert

A MOTION was made by Councilor O'Connor to OPEN the public hearing on item 10 067 and was seconded by Councilor Smart. This public hearing was published on May 28, 2010. UNANIMOUSLY VOTED.

Mr. Wilson reported this measure seeks to raise and appropriate \$600,000 from the water retained earnings for the purpose of repairing or replacing the culvert that runs between Whitmans Pond and the South Cove. The balance in the water retained earnings account at this time is \$2,134,453. Superintendent Chiasson reported that an inspection a year ago of the sluice scape indicates the culvert is being undermined due to the flows and is no longer serving its purpose of stopping flow both ways. Damage to the culvert itself was also found and a sink hole forming. Funds are sought for further inspection, design, and permitting for the repairs of the culvert and sluice scape. The state has offered to perform the construction portion of the work. Councilor DiFazio asked if backup was provided to explain the \$600,000 work. Mr. Chiasson responded that it can be provided, and includes construction, dewatering, bypass, concrete work, police details, permitting and construction oversight. Councilor DiFazio asked that this information be provided with the measure for the Budget/Management's consideration.

A MOTION was made by Councilor O'Connor to CLOSE the public hearing and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

COMMUNICATIONS FROM THE MAYOR, TOWN OFFICERS AND TOWN BOARDS

10 071-GASB-45 Required 3 Year Study

A MOTION was made by Councilor O'Connor to refer item 10 071 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 072-CDBG & Home Funding 2010-2012

A MOTION was made by Councilor O'Connor to refer item 10 072 to the Budget/Management Committee and was seconded by Councilor Smart. VOTE PASSED 10/0/1 with Councilor Pap abstaining.

10 073-Reserve Fund Transfer-Town Council Budget-Recording Secretary

A MOTION was made by Councilor O'Connor to refer item 10 071 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 074-Medicare Taxes Employer Share

A MOTION was made by Councilor O'Connor to refer item 10 074 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 075-Reappropriation Contributory Retirement

A MOTION was made by Councilor O'Connor to refer item 10 075 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 076-Reserve Fund Transfer-Mayor's Budget-Other Professional Services and Publications

A MOTION was made by Councilor O'Connor to refer item 10 076 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 077-Capital Expenses-Police Department Radios

A MOTION was made by Councilor O'Connor to refer item 10 077 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 078-Reappointment to the Board of Registrars-Michele Cronin

A MOTION was made by Councilor O'Connor to refer item 10 078 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 079-Reappointment to the Board of Assessors-Kevin Spellman

A MOTION was made by Councilor O'Connor to refer item 10 079 to the

Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 080-Reappointment to the Board of Elder Services-Laureen Pizzi

A MOTION was made by Councilor O'Connor to refer item 10 080 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 081-Appointment to the Waterfront Committee-Claud Keith

A MOTION was made by Councilor O'Connor to refer item 10 081 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 082-Reappointment to the Veterans' Council-Robert Haley

A MOTION was made by Councilor O'Connor to refer item 10 082 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 083-Reappointment to the 4th of July Committee-William Robinson

A MOTION was made by Councilor O'Connor to refer item 10 083 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 084-Reappointment to the Recreation Commission-Arthur DelRosso

A MOTION was made by Councilor O'Connor to refer item 10 084 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 085-Reappointment to the Board of Health-Maureen DelPrete

A MOTION was made by Councilor O'Connor to refer item 10 085 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 086-Reappointment to the Board of Elder Services-William Begley

A MOTION was made by Councilor O'Connor to refer item 10 086 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 087-Reappointment to the Cultural Council-Lori Ann Powers

A MOTION was made by Councilor O'Connor to refer item 10 087 to the Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

10 088-Reappointment to the Community Preservation Committee-Donna O'Sullivan

A MOTION was made by Councilor O'Connor to refer item 10 088 to the

Budget/Management Committee and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

REPORTS OF COMMITTEES

Budget/Management Committee-Chairman DiFazio

09 111-External Audit Proposals for Fiscal Years 2010-2014

Councilor DiFazio reported that Section 6-11, Independent Audit of the of the Town Charter, states that the awarding of the audit contract is made by the Town Council at the recommendation of the Budget/Management Committee. This measure was referred to the committee on October 5, 2010. The committee met on November 9, 2009, November 23, 2009, February 1, 2010, March 1, 2010, April 20, 2010, May 3, 2010 and on May 12, 2010, by a 3/1 vote, recommended favorable action to the selection of the firm Melanson, Heath & Co. for a three-year contract for the external review of fiscal years 2010, 2011 and 2012. Five proposals were submitted and reviewed. He requested Mr. Swanson give an update to the Council of recent communication with Melanson, Heath & Co..

Mr. Swanson reported that he was able to negotiate with a partner in the firm for a \$16,000 reduction in the price of the contract, which has resulted in a contract price of \$47,000 for FY2010, \$47,000 for FY2011, and \$49,000 for FY2012.

President Mathews asked Mr. Swanson to read his recommendations to the Council. The firm has a total of 87 professionals, including 30 CPA's, 10 officers and 70 staff members. The firm specializes in municipal audits, and has been around since 1976 and is recognized for quality service by its clients. Mr. Swanson also reviewed and contacted references, and received confirmation of the quality of their work by several towns, including Framingham. They stayed within the budgeted hours and costs, issued timely reports and quality management letters.

Councilor DiFazio noted that the committee spent many hours deliberating the proposals. On behalf of the Budget/Management Committee, a MOTION was made by Councilor DiFazio to award a three-year contract for external audit of the town to the firm Melanson, Heath & Company, and was seconded by Councilor O'Connor.

Councilor Molisse asked how the price, with a reduction of \$16,000, compares with the firm of Malloy, Lynch & Bienvenue. Mr. Swanson responded that Malloy, Lynch & Bienvenue was lower, but is a smaller firm. He believes the better choice is Melanson, Heath & Company. President Mathews noted Malloy, Lynch & Bienvenue's proposed prices for the same contract years are \$43,000, \$45,000 and \$47,000 respectively and is \$750 more for the school audit portion. Vice President O'Connor noted that there was great debate on this matter. Additional negotiations by the candidates were requested. The price is adequate; there was a much larger disparity between the bids of these two firms initially.

Councilor Lacey asked for clarity on the selection process since the last committee

meeting- specifically if each of the three finalist firms were requested to provide additional pricing and how the other firms responded. President Mathews responded that the request by the full Town Council was to ask each of the three firms to provide a proposal for a one-year contract. At that time, Malloy, Lynch & Bienvenue's pricing increased by \$5,000 to \$48,000. It was then discussed at committee level and a vote was made to select two finalists, and included language requesting Mr. Swanson go back and request a best and final offer. Mr. Swanson did that, and checked references at the time. The committee then voted 3/1 to recommend Melanson, Heath & Company. Councilor Lacey asked which firm was the second finalist and what pricing did they come back with. President Mathews responded that the firm was Malloy, Lynch & Bienvenue. Mr. Swanson reported that he did not call Malloy, Lynch & Bienvenue for a counterproposal. He was asked to go back to Melanson, Heath & Company to reduce their pricing. Councilor Lacey noted that Mr. Swanson's description indicates the firm of Melanson, Heath & Company is a solid choice; however he will not support this due to the manner of the selection process and the lack of fairness in the bidding process. Companies who initially bid on the work were not given the same opportunity to come back with counterproposals.

Councilor Smart noted that a lot of time has been spent reviewing the proposals. He noted that Malloy, Lynch & Bienvenue was the only company which did not return completed conflict of interest forms which were requested more than once. Once the two finalists were selected, each was asked to provide a best and final offer, and complete the conflict of interest letters. Based on Councilor Smart's knowledge that the partners in Malloy, Lynch & Bienvenue were in some way connected to the town of Weymouth, he wanted that information disclosed. They probably are a great firm, but questioned if it is the firm the town should select for the external audit, when one of the firm's partners had a relative who worked in Municipal Finance. He additionally noted that another partner was the chair of the Rotary in Weymouth and another was involved in town activity. There was a substantial difference in the pricing at that time and Councilor Smart was uncomfortable justifying to the residents the selection of this firm. There was no impropriety, but he was not comfortable with the town connections. He believes the process was fair and will support the motion.

Councilor Whitaker asked for confirmation from the Town Solicitor regarding the selection process. Solicitor Lane responded that he was not consulted to review the proposals; the selection process is outside of Ch. 30-B requirements. President Smart noted this does not come under 30B or lowest bid, and confirmed that the RFP process was adhered to. Councilor Whitaker noted that supplemental requests were made after the initial proposals and questioned whether it is lawful. President Mathews noted that Mr. Swanson contacted both firms regarding references, and thought he understood it was to also solicit best and final offers from both firms, and apologizes if there was a miscommunication.

Councilor Molisse noted he would not support the measure also, due to the procedure followed. He believes all firms should have been allowed to come back with offers, and he does not support sending business out of state, when Malloy, Lynch & Bienvenue is

qualified, and is a Massachusetts firm.

President Mathews made a point of information clear; all that the selection committee was asked to do was to select two finalists. Councilor Molisse responded that the second firm of the finalists should have then been given the opportunity to come back with an offer also. Councilor Lacey noted that a vote needs to be taken, but he takes exception to the selection process followed.

Councilor DiFazio noted he initially recommended Malloy, Lynch & Bienvenue, but was not convinced the firm has adequate qualifications and experience for an audit of a city form of government. President Smart noted that the total price of the contract is \$2,000 more than is currently budgeted.

A ROLL CALL VOTE was taken; Councilor Conlon- YES; Councilor DiFazio- YES; Councilor Harrington- YES; Councilor Lacey- NO; Councilor McDonald- YES; Councilor Molisse- NO; Councilor Pap- YES; Councilor Smart- YES; Councilor Whitaker-YES; Vice President O'Connor- YES; President Mathews- YES; Vote PASSES 9/2.

10 023-Unpaid Bills

Councilor DiFazio reported that this matter was referred to the Budget/Management Committee on April 5, 2010. The committee met on April 26, 2010 and voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth raise and appropriate the sum of \$25,449 from free cash for the purpose of paying the following vendors' unpaid bills:

- Tyler Technologies
- Trident Insurance
- Suez Energy
- PRN Transportation
- Massachusetts Humane Society
- George Burr
- ESRI
- EPA
- Commerce Insurance

This was seconded by Councilor O'Connor. Councilor DiFazio noted that Mr. Swanson has reviewed the bills and provided a brief report to the Council. Mr. Swanson noted that he has received the bills from the Town Accountant, and under Ch.44, Section 64 of M.G.L. examined all invoices and supporting documentation for unpaid bills listed the Mayor's memorandum, with the exception of the bill from ERSI, which does not have an invoice. The Council will need to pass a measure to award the contract for IT, GSI services before a contract can be approved and a subsequent invoice can be generated. UNANIMOUSLY VOTED.

10 030-Reserve Fund Transfer-Veterans' Benefits

Councilor DiFazio reported that this matter was referred to the Budget/Management

Committee on April 5, 2010. The committee met on June 7, 2010 and voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth transfers the sum of \$10,000 from the Reserve Fund, to Program 132, for the purpose of funding the costs associated with requests for Veterans' benefits required by Massachusetts General Laws. This was seconded by Councilor O'Connor. UNANIMOUSLY VOTED.

10 059-Appointment of Town Auditor

Councilor DiFazio reported that this matter was referred to the Budget/Management Committee on May 3, 2010. The committee met on June 7, 2010 voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth APPOINT Richard Swanson to a three year term as Town Auditor. The terms of the contract are outlined in a Proposed Agreement attached to the measure. This was seconded by Councilor O'Connor. President Mathews reviewed the terms of the contract. UNANIMOUSLY VOTED.

10 062-Free Cash Appropriation-Police Department Car-\$35,000

Councilor DiFazio reported that this matter was referred to the Budget/Management Committee on May 3, 2010. The committee met on May 5, 2010, and voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth raise and appropriate the sum of \$35,000 from free cash for the purpose of funding the cost of a vehicle for the police department and was seconded by Councilor O'Connor. UNANIMOUSLY VOTED.

10 063-Free Cash Appropriation-Police Department Report Filing System- \$17,000

Councilor DiFazio reported that this matter was referred to the Budget/Management Committee on May 3, 2010. The committee met on May 5, 2010 voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth Raise and Appropriate the sum of \$17,000 from Free Cash for the purpose of funding the cost of an automated interactive public internet-based report filing system for the police department and was seconded by Councilor O'Connor. UNANIMOUSLY VOTED.

10 064-Reserve Fund Transfer for Police Department Training

Councilor DiFazio reported that this matter was referred to the Budget/Management Committee on May 3, 2010. The committee met on May 5, 2010 voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth transfers the sum of \$12,670 from the reserve fund for the purpose of funding the cost of ammunitions for the training program at the police department and was seconded by Councilor O'Connor. UNANIMOUSLY VOTED.

10 065-Reserve Fund Transfer-Sewer Department-Wharf Street Pump Station

Councilor DiFazio reported that this matter was referred to the Budget/Management Committee on May 3, 2010. The committee met on May 5, 2010 voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth transfers the sum of \$50,000 from the Sewer Enterprise Reserve Fund for the purpose of funding certain costs associated with the initial costs to repair the 10x50-foot section of the town's sanitary sewer 18" pipe that carries flow from the Wharf Street pump station to the MWRA system and was seconded by Councilor O'Connor. UNANIMOUSLY VOTED.

10 066-Appropriation \$500,000 Sewer Retained Earnings-Hinston Road

Councilor DiFazio reported that this matter was referred to the Budget/Management Committee on May 3, 2010. The committee met on May 5, 2010 voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth raise and appropriate the sum of \$500,000 from the Sewer Enterprise Fund-Retained Earnings for the purpose of funding the costs to repair/replace the 18" sewer that recently collapsed and was seconded by Councilor O'Connor. UNANIMOUSLY VOTED.

10 067-Appropriation \$600,000 Water Retained Earnings-Washington Street Culvert

Councilor DiFazio reported that this matter was referred to the Budget/Management Committee on May 3, 2010. The committee met on May 5, 2010 voted unanimously to forward the item to the full Town Council with a recommendation for favorable action. On behalf of the Budget/Management Committee a MOTION was made by Councilor DiFazio that the Town of Weymouth raise and appropriate the sum of \$600,000 from the Water Enterprise Fund-Retained Earnings for the purpose of funding the costs to repair/replace, the permitting costs associated with the repair of the water culvert that runs between Whitman's Pond and the South Cove and was seconded by Councilor O'Connor. UNANIMOUSLY VOTED.

Discussion on receipt of fiscal year 2010 school budget material

Chairman DiFazio noted that although the Budget/Management Committee does not ordinarily report out on upcoming budget review, the committee at its meeting earlier in the evening met and reviewed an issue that has come up with regard to the review of the school department budget. The consensus of the committee was that Councilor DiFazio would report out to the full Council that issue. The committee has conducted eight meetings and completed initial review of all town departments-- except the school budget. On April 5, 2010, the Mayor's budget was referred to the Budget/Management Committee for review, which included a one-line item appropriation of \$51.5 million for the school department. The school department budget was originally scheduled for review by the Budget/ Management Committee on June 3, 2010 but has been delayed to June 9th since the committee did not receive their budget materials until June 1st. On March 4, the School Committee approved a \$55.5 million budget which was then reduced

by Mayor Kay to \$51.5 million after considering the impact the school department's requested appropriation would have on the total town operating budget. Since the Mayor's communicated reduction, the School Committee deliberated, conducted a public hearing and proposed a line item budget which supports the \$51.5 million and issued material to the Budget/Management Committee which supports such a budget. Section 6-2 of the town Charter requires the School Committee to take a roll call voted on its amended budget, after it concludes its public hearing and makes amendments. It became clear on June 3, 2010 that the School Committee did not adhere to Section 6-2 at its last meeting by intentionally not voting the \$55.1 million budget proposal. Therein lies the issue; for the first time in ten years, the school department has deliberately provided documents for review by the committee which have not been previously voted. As chair of the committee, Councilor DiFazio suggested that prior to the committee commencing a review of unvoted materials, that it report out to the full Council of the circumstances. On the one hand; time is of the essence; on the other, reviewing and deliberating material which is not properly before the committee is premature without the agreement of the full Town Council. The Town Solicitor and the chair of the school committee both had input at the committee level.

There was a moderate discussion and Solicitor Lane was asked to offer an opinion as to whether a vote has been taken at the school committee level which meets the requirements of Section 6-2. Solicitor Lane noted that he asked for deferral of the question as to whether there has been a violation by the school committee of Section 6-2 of the Charter. He will weigh in at the next committee meeting. Councilor Lacey noted he is uncomfortable since the school committee held a second public hearing without a subsequent vote. Councilor Whitaker noted he believes the school committee has met its obligation of presenting a budget. Councilor Pap asked a review of what has transpired in committee to date and whether the documentation provided supports the budget amount of \$51.5 million.

Councilor DiFazio and Mr. Wilson reviewed for the committee what action would be taken if a budget has not been voted by July 1st by the school committee. Mr. Wilson noted that neither the Town Council nor the Mayor has the ability to allocate funds to each of the line items, nor impose judgment over the school committee. Only the school committee can determine what it will expend across the department by school and district. When there is a variance over what has been raised and appropriated and what has been voted by the school committee, no expenditures can be permitted until the two are in balance by state law. Unless and until the school committee adopts a spending plan which equals what has been voted upon by the Town Council, and signed by the Mayor, there are no line item allocations and no spending will be allowed until that happens.

There was a brief discussion of what spending typically occurs in July and August. Councilor Smart noted that during the committee meeting, the chair and superintendent were asked why they would intentionally risk the ability to pay bills. He was disappointed that the superintendent did not speak up and was not more vocal in giving direction to the school committee or supportive of the school committee chair; he would have expected more from a school superintendent. Councilor Lacey noted that he would

like to await the formal legal opinion from the town Solicitor and believes it prudent for the committee to have this opinion as well. Councilor Pap asked why the school committee has not taken a vote on the \$51.5 million budget as of yet. Mr. Guilfoyle responded that emotions are running high and it has been difficult to get to the reduction. The proposal provided is a draft and when it is voted, it will be a roll call vote, as required by charter. Mr. Guilfoyle responded that it has been a difficult process. Councilor Pap responded that the school committee is playing chicken with the town's children and practicing political theater. Mr. Guilfoyle took exception to Councilor Pap's comments. He again reviewed the process the school committee took in its budget considerations. The Town Council will vote a number, and the school committee will implement how that funding will be allocated.

A MOTION was made by Councilor Whitaker to APPROVE the school committee's budget of \$51.1 million and was seconded by Councilor McDonald. Councilor Smart made a point of order that the motion is to approve a budget currently before the Budget/Management Committee which has not yet been deliberated at committee level. Councilor Lacey made a point of order that Councilor Whitaker follow the council's rules and ask the Council to consider this item as an additional agenda item to be added for discussion, debate and vote under 2-9(b). President Mathews noted the Town Council rules indicate action taken would be with the recommendation of the Budget/Management Committee and agreed with Councilor Lacey and suggested Councilor Whitaker make a request to consider the item under 2-9(b). Councilor Whitaker responded that it did not need to be made under 2-9(b) as the item has already been introduced. Councilor Pap asked if the Council has the authority to direct the committee not to review the materials that have been introduced but are not in order. President Smart referred to the chair of the Rules Committee that there is a rule that would have to be required to be waived to relieve the committee of its deliberations. Councilor Whitaker responded that it is allowed, but it is not required. Nothing precludes the committee from segmenting the budget into smaller parts and voting it that way. Councilor Pap withdrew his question.

At 9:32PM, a MOTION was made by Councilor O'Connor to take a short recess to review the rules, and was seconded by Councilor Lacey.

At 9:40PM, the meeting reconvened. A MOTION is on the floor to approve the Mayor's school department budget of \$51.5 million. President Mathews ruled the motion out of order and cited Rule 39, "Relieving from Further Consideration-- "Upon motion, the Council may by majority vote of all of the members of the Council, relieve a committee of further consideration of a matter referred to it, and order the same place on the calendar." That was not done by this Council and therefore Councilor Whitaker's motion is ruled out of order.

Councilor Whitaker made a MOTION to suspend the rules so the Council can take a vote on approving the Mayor's \$51.5, million school department budget and was seconded by Councilor Harrington. President Mathews asked if Councilor Whitaker cited Rule 23 (Suspension of a Rule), and Councilor Whitaker responded that his motion is to suspend

all of the rules. President Mathews noted there is no rule which covers the suspension of all of the rules, but that Rule 23, the Suspension of a Rule, covers what Councilor Whitaker is requesting. Councilor Whitaker agreed. Councilor Pap noted he will not support the motion. Vice President O'Connor requested a roll call vote be taken as a majority vote is needed to pass. Councilor Whitaker noted he is making this motion because the only actions the Council can take on the budget is to pass it or reduce it and he does not see that the Council intends to further reduce it, so it should be voted now so the committee has adequate time to deliberate the allocation of the funds. President Mathews referred back to Rule 23, and reread it. A YES vote will support Councilor Whitaker's request to suspend the rule. Councilor Lacey asked for clarification that no action was taken by the school committee on the \$51.5 million budget, and that a vote was taken by the school committee to support a resolution to the Council outlining their position on the \$51.5 million budget. He asked for Mr. Guilfoyle to respond. President Mathews noted that a copy of the resolution was received and distributed to the Councilors. Mr. Guilfoyle noted there was a resolution voted by the school committee which should have been the first page of the voted budget- it may not have been presented in this manner with the draft. Councilor Smart agreed with Councilor Pap to not support a motion to relieve this committee of one of the most important duties that it has; it sends the wrong message. The school committee has had ample time to meet on, deliberate and vote their budget. Councilor DiFazio noted he will not support the motion based upon the motive of wanting to suspend the rules. He reminded the Council of the strides that have been made with regard to rapport with the school committee, and would not want to jeopardize the comfort of knowing that the school committee is willing to provide information each year in this effort. Councilor McDonald will not support; he supports moving forward with the review process. Councilor O'Connor noted that the draft budget needs to be reviewed further with the chair and administration and will not support the motion. Councilor Molisse will not support; the rules are in place for a reason and a habit should not be made of suspending them. He is looking forward to a review of the budget as a member of the Budget/Management Committee. Councilor Harrington noted he will support the motion; a year ago the Council passed a resolution regarding Collective Bargaining which was unheard by the school committee which then awarded an outrageous contract in the face of economic uncertainty. He is not sure rapport was considered then. He was elected to make difficult decisions; he is willing to resolve it by supporting the motion.

A ROLL CALL VOTE was taken; Councilor Conlon- NO; Councilor DiFazio- NO; Councilor Harrington- YES; Councilor Lacey- YES; Councilor McDonald- NO; Councilor Molisse- NO; Councilor Pap- NO; Councilor Smart- NO; Councilor Whitaker- YES; Vice President O'Connor- NO; President Mathews- NO; Vote FAILS 8/3.

A MOTION was made by Councilor Smart to proceed with the review by the Budget/Management committee of the proposed \$51.5 million budget of the school committee, and was seconded by Councilor McDonald. Councilor Whitaker asked a point of information to the Town Solicitor-- whether the Town Council has a duty to review the \$51.5 million budget. Solicitor Lane responded that the Council is the appropriating authority of the budget and there should be a review of substance.

A ROLL CALL VOTE was taken; Councilor Conlon- YES; Councilor DiFazio- NO; Councilor Harrington- NO; Councilor Lacey- NO; Councilor McDonald-YES; Councilor Molisse- NO; Councilor Pap- YES; Councilor Smart- YES; Councilor Whitaker-NO; Vice President O'Connor- YES; President Mathews- YES; Vote PASSES 6/5.

Ordinance Committee-Chairman Smart

10 016-Charter Review Committee Proposed Amendment

Councilor Smart reported that this item is the body of work that was referred by the Charter Review Committee to the Town Council and the Ordinance Committee on March 11, 2010. Subsequently, an opinion from Solicitor Curran the charter review attorney, indicated that the body of work was not in the correct form to be presented to the Mayor, Council and Attorney General's office for consideration on a ballot. The chair of the Charter Review Committee has submitted a request that the work be sent back to the committee for proper formatting and to consider two items that were presented by residents after the submittal. On May 19, 2010 the Ordinance Committee met and voted favorable action to send back to the Charter Review Committee the body of work along with the two additional items. A MOTION was made by Councilor Smart to return the body of work and the two additional items to the Charter Review Committee for further work and consideration before it is presented, and was seconded by Councilor O'Connor. Mrs. Deacon addressed the Council and stated that the Charter Review Committee is meeting on June 22, 2010 to discuss the formatting and the additional items. She asked if the committee could consider additional items if they are presented. President Mathews noted that due to the timelines cited by Attorney Curran, he did not feel there would be a problem considering other additional items, but asked Solicitor Lane to attend their meeting and offer a legal opinion. She summarized the letter from Attorney Curran which is attached to the measure. Councilor Whitaker noted Attorney Curran's opinion is contrary to the charter language and asked Solicitor Lane to address whether the Council must take action. Solicitor Lane deferred. Attorney Curran will offer a legal opinion at the committee meeting. A SUBSTITUTE MOTION was made by Councilor Whitaker to take no action on item 10 011, send a letter to the Charter Review Committee asking their timeframe to proposing additional amendments to the charter for consideration by the Town Council and was seconded by Councilor Lacey.

Councilor Whitaker noted he believes there is a problem with the language in the charter, and the Council is obligated to address it and take a final action. Councilor Smart noted he believes that a written opinion has already been received by Attorney Curran to that effect and will not support the motion. Councilor Whitaker noted that he believes the Council has a statutory obligation to act.

A ROLL CALL VOTE was taken; Councilor Conlon- NO; Councilor DiFazio- NO; Councilor Harrington- NO; Councilor Lacey- YES; Councilor McDonald- NO; Councilor Molisse- NO; Councilor Pap- NO; Councilor Smart- NO; Councilor Whitaker-YES; Vice President O'Connor- NO; President Mathews- NO; SUBSTITUTE MOTION VOTE FAILS 2/9.

The original MOTION, referral of item 10 011 to the Charter Review Committee was voted. VOTE CARRIES 9/2 (Councilors Lacey, Pap-NO).

NEW BUSINESS

10 068-Reappointment of Town Clerk-Council President Arthur Mathews

President Mathews reported that this item seeks to reappoint Franklin Fryer to a 3-year term as Town Clerk. His term would expire on June 18, 2013. A MOTION was made by Councilor O'Connor to refer this item to the Budget/Management Committee and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

10 069-Reappointment of Assistant Town Clerk-Council President Arthur Mathews

President Mathews reported that this item seeks to reappoint Kathleen Deree to a 3-year term as Assistant Town Clerk. Her term would run conterminously with the Town Clerk; also expires on June 18, 2013. A MOTION was made by Councilor O'Connor to refer this item to the Budget/Management Committee and was seconded by Councilor Smart.

A MOTION was made by Councilor O'Connor to take **MOTIONS, ORDERS AND RESOLUTIONS** out of order and was seconded by Councilor Molisse. UNANIMOUSLY VOTED.

MOTIONS, ORDERS AND RESOLUTIONS

Resolution to Weymouth Teachers Association-Councilor Patrick O'Connor

Councilor O'Connor noted that the council has heard from many residents over the last several weeks, and in reviewing the school committee budget before the committee, he believes it is a higher priority to maintain smaller class sizes, furnish materials, and more teachers rather than fund salary increases. He wrote a resolution to send a message to the Weymouth Teachers Association that we are all working on this together and that this means a lot financially to the school department's budget to the amount of money that will be generated by the deferral of raises through furloughs or deferral until better fiscal times.

The second part of the proposal would be a resolution; that during good economic times, the town of Weymouth footed 70 percent of the cost of the trash removal contract, far more than in neighboring communities. It costs \$364 from each household to pick up trash. The proposal is to suggest that the cost of the trash pickup be equally shared, and the savings could be allocated to the various departments. He looks forward to discussing this at the Budget/Management meeting on Wednesday. He anticipates the amount generated in revenue by both parts of his proposal will be in excess of \$3 million. He read the resolution into the record:

"Whereas the current global economic crisis has led to the loss of eight million jobs, the collapse of the U.S. housing market, the near financial collapse of entire European nations, and the greatest period of economic instability since the Great Depression,

“And whereas the Commonwealth of Massachusetts has cut local aid to the Town of Weymouth while burdening the Town of Weymouth with additional unfunded mandates and higher assessments,

“And whereas over the past three fiscal years the Town of Weymouth has been forced to mandate furloughs, cut all discretionary spending, eliminate all borrowing for general government capital improvements, reduce employees’ hours, cut salaries, and eliminate positions just to preserve basic governmental services,

“And whereas the Town of Weymouth has embraced reform, where appropriate, such as the regionalization of the trash collection services, reducing health care costs, and streamlining government operations,

“And whereas the scheduled salary increases due to the Weymouth Teachers Association in fiscal year 2011 exceeds the amount the Town of Weymouth can increase the tax levy limit under Proposition 2 1/2,

“And whereas the Weymouth Teachers Association has received over \$5,000,000 in salary increases (step increases, lane changes and raises) over the past three fiscal years,

“And whereas it is the opinion of the Weymouth Town Council that smaller class sizes, better materials, and more teachers are of a higher budgetary priority than salary increases,

“Resolved, that the Weymouth Town Council

- 1. “Respectfully request that the Weymouth Teachers Association defer their salary increases in FY2011*
- 2. “That these savings be used to preserve teaching positions, maintain class sizes, and purchase educational materials so that the students of Weymouth can continue to receive the quality education all children are entitled to receive.”*

A MOTION was made by Councilor O’Connor to refer this resolution to the Budget/Management Committee and was seconded by Councilor Mathews. Councilor O’Connor repeated his reasons for bringing the resolution forward.

Councilor Pap commended Councilor O’Connor for an attempt at a solution. Councilor DiFazio urged all members to offer their opinions at the Budget/Management meeting.

A SUBSTITUTE MOTION was made by Councilor Lacey to vote Councilor O’Connor’s resolution this evening. It was not seconded.

Councilor Whitaker noted that he will abstain from a vote on this matter as his brother is a Weymouth teacher. Councilor Molisse noted he appreciated the work Councilor

O'Connor has put into the resolution but will not support a motion. The Weymouth Teachers Association ratified their contract in June 2008 and the school committee voted approval in July 2008, and the teachers deserve to be paid. Weymouth stands to lose qualified teachers if this resolution goes forward.

Councilor DiFazio requested clarification of Councilor Lacey's substitute motion. Councilor Lacey noted he did not believe there was enough time allowed for his substitute motion to be seconded. He restated his motion, to take action on Councilor O'Connor's resolution this evening, and was seconded by Councilor O'Connor. President Mathews noted it would require action under 2-9(b), same night action. Councilor Lacey responded that it is on the agenda. Councilor Smart notes it is on the agenda, but for a referral to committee. Any other vote will require action under 2-9(b). He believes it should go to committee so that all members can have input on what final version is agreed to. It should not be rushed. Councilor Lacey requested members vote NO on the substitute motion versus stating that is not legitimate to be voting it this evening. The agenda item states, "Resolution to Weymouth Teacher Association-Councilor Patrick O'Connor"; which is an agenda item. Councilor Lacey presented a substitute motion for the Council to vote YES or NO. President Mathews discussed whether the Council has previously voted on a resolution under same night action. Councilor Harrington noted he would prefer some time lapse before the vote is taken on the resolution so it has adequate time to be discussed. VOTE FAILS, 6/4/1

The original MOTION, by Councilor O'Connor to refer this item to the Budget/Management Committee was then voted. VOTE PASSED 9/1/1.

Update on Kibby Property Purchase (discussion necessitates executive session- James Clarke/Director of Planning and Community Development / James Comeau/Division of Conservation and Recreation

A MOTION was made by Councilor O'Connor to go into Executive Session for the purpose of considering the purchase, exchange, lease or other value of real property located at 269 Neck Street, and reconvening in Open Session and was seconded by Councilor Smart.

A ROLL CALL VOTE was taken; Councilor Conlon- YES; Councilor DiFazio- YES; Councilor Harrington- YES; Councilor Lacey- NO; Councilor McDonald- YES; Councilor Molisse- YES; Councilor Pap- YES; Councilor Smart- YES; Councilor Whitaker-YES; Vice President O'Connor- YES; President Mathews- YES; UNANIMOUSLY VOTED.

EXECUTIVE SESSION MINUTES WILL BE RELEASED SEPERATELY.

At 10:55, the council returned from Executive Session and the meeting continued.

ADJOURNMENT

At 10:56PM, there being no further business, a MOTION was made by Councilor O'Connor to ADJOURN and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Briggs as Recording Secretary.

Approved by Council President Arthur Mathews.