

MINUTES OF THE TOWN COUNCIL
Town Hall Council Chambers
September 7, 2004

PRESENT: T. J. Lacey – President, Michael Smart – Vice-President, Joseph Connolly, Ken DiFazio, Greg Hargadon, Sue Kay, Paul Leary, Arthur Mathews, Colin McPherson, Michael Molisse, Greg Shanahan

OTHERS: Dick Swanson, Frank Fryer, George Lane, Jane Hackett, James Wilson

President Lacey called the meeting to order at 7:30 p.m.

Mr. Hargadon announced a Weymouth police officer was run over and hit twice and sustained knee and hip damaged. He voiced his disappointed with the light prison sentence of one day and a house arrest of a year of the assailant. He also announced the Weymouth High School Project is being done on time and approximately \$2 million under budget. Tentatively the last football game on Legion Field will be September 17, 2004. The new field will be used on October 8, 2004.

Councillor Leary stated the primary election would be September 14, 2004. There are eight new voting sites.

Michael Molisse stated he received a call from Police Officer Dick Hayes who told him the Police Memorial Sunday scheduled for September 12, 2004 has been cancelled.

Susan Kay stated that Representative James Murphy and Susan DiTullio are sponsoring a seminar tomorrow at 10:30 a.m. regarding the prescription advantage program at the Department of Elder Affairs at the Whipple Center.

Colin McPherson stated he is impressed with the Science and Technology departments at the new high school. He stated he attended a meeting with Michael Smart regarding the South Weymouth Naval Airbase. Tri Town announced at the August meeting that Lenar would be doing a presentation for their plans on September 23, 2004. They will also give a presentation to the Town Council on October 4, 2004.

Greg Shanahan stated the next meeting for the North Weymouth Civic Association would be September 16, 2004 at the Henley Building. The Vietnam Veterans are holding the annual 5K road race on November 6, 2004 at 10:00 a.m. To register for the race you can email at wvwm5k@comcast.net or call Greg Shanahan at 781-340-6175. On Saturday October 23, 2004 there will be a coastline cleanup from 9:00 – 5:00. They are seeking volunteers to clean up local beaches.

Joseph Connolly stated the WHS ribbon cutting ceremony would be Thursday at 5:00 p.m. He stated he would like to follow up on what Greg Hargadon was saying about the police office that was injured. Police Officer Steven Charlot is a great guy and the police force should be proud to have him.

Councillor Matthews stated the polling changes were done for handicapped accessibility. Precinct 6 was changed to Tufts; Precinct 7 was changed to Chapman Middle School; Precinct 9 was changed to DPW; Precinct 10 was changed to DPW; Precinct 12 was changed to WHS; Precinct 13 was changed to WHS; Precinct 16 & 17 were changed to A L Bean Post #79.

President Lacey stated the questionnaire is due to the Town Auditor this evening. Mr. Lacey welcomed secretary Diane Hachey to the Town Council office.

A MOTION was made by Michael Smart and seconded by Paul Leary to approve the minutes from the Special Town Council dated 07/26/04 and was UNANIMOUSLY APPROVED.

A MOTION was made by Michael Smart and seconded by Arthur Mathews to approve the minutes from the Ordinance Committee dated 07/26/04 and was UNANIMOUSLY APPROVED.

A MOTION was made by Michael Smart and seconded by Arthur Mathews to approve the minutes from the Budget Management Committee dated 07/28/04 and was UNANIMOUSLY APPROVED.

A MOTION was made by Michael Smart and seconded by Arthur Mathews to approve the minutes from the Special Town Council dated 08/02/04 and was UNANIMOUSLY APPROVED.

A MOTION was made by Michael Smart and seconded by Arthur Mathews to approve the minutes from the Special Town Council dated 08/09/04 and was UNANIMOUSLY APPROVED.

A MOTION was made by Michael Smart and seconded by Arthur Mathews to approve the minutes from the Ordinance Committee dated 08/09/04 and was UNANIMOUSLY APPROVED.

A MOTION was made by Michael Smart and seconded by Arthur Mathews to approve the minutes from the Budget Management Committee dated 08/09/04 and was UNANIMOUSLY APPROVED.

A MOTION was made by Michael Smart to open the public hearing on 04 173 Mass Electric regarding 28 Wainwright Avenue and was seconded by Greg Hargadon and was UNANIMOUSLY APPROVED.

Mr. Yopez, Engineer of Mass Electric stated they are seeking permission to construct a line of underground electric conduits, including the necessary sustaining and protecting fixtures as said company may deem necessary under and across the following public way or ways: Wainwright Avenue – from existing handhold HH 5-1, 40' westerly to a new

handhold HH 5-2 located at lot for house #28 Wainwright Avenue. A sketch was submitted along with an abutters list. The work would be built to their specifications. They have contacted the DPW. Councillor Smart stated since they will be crossing a Town of Weymouth street and saw cutting the road it is expected they will repair the road back to its original condition. Mr. Yepez agreed.

T. J. Lacey asked if there were any questions from the councilors or the public, to which there was no reply.

A MOTION was made by Michael Smart and was seconded by Greg Hargadon to close the public hearing on Measure 04 173 and was UNANIMOUSLY VOTED.

A MOTION was made by Michael Smart to open the public hearing on 04 174 Mass Electric/Verizon regarding the intersection of Route 18, Pleasant and Pond Streets and was seconded by Arthur Mathews and was UNANIMOUSLY APPROVED.

Mr. Yepez, Engineer of Mass Electric stated they are seeking permission to relocate poles to accommodate the widening of the road by the Massachusetts Highway Department. The proposed relocations are as follows: Main Street pole #'s 114, 115, 116, 117, 120, 121, 122, 123, 124 & 125; Pleasant Street Pole #'s 208, 209, 210, 212 & 213; Pond Street Pole #'s 1, 2, 3 & 5. A sketch of the proposed pole moves and an abutter's list was submitted to the Council. The poles would be located at uneven intervals so they do not interfere with existing driveways. The poles movement varies from three feet to twenty feet.

Susan Kay asked how close it would bring the poles to business or residences. Mr. Yepez stated they stay within the right of way near the sidewalk area. Mr. Lacey asked if there was any land taking involved. Mr. Yepez stated there were none.

The President asked if there was any public comment.

A resident from 925 Main Street asked why they are not using underground cable. Mr. Yepez stated it was a matter of cost. The resident asked if she could find out exactly where the pole in front of her house would be located. She had concern that the pole would interfere with the use of her driveway. Mr. Yepez gave her a business card and stated she could contact him and find out exactly where it would be located.

Colin McPherson asked which pole number they were discussing. Mr. Yepez stated it was Pole #114 and would be moved 6'. He stated they would work with the resident to ensure it is not conflicting with her driveway.

A MOTION was made by Michael Smart and was seconded by Paul Leary close the public hearing on Measure 04-174 and was UNANIMOUSLY VOTED.

A MOTION was made by Paul Leary and was seconded by Arthur Mathews to vote favorably under 2-9(b) on Measure 04 173 – Mass Electric: 28 Wainwright Avenue and was UNANIMOUSLY VOTED.

A MOTION was made by Paul Leary and was seconded by Arthur Mathews to vote favorably under 2-9(b) on Measure 04 174 – Mass Electric/Verizon: Intersection of Rt.18, Pleasant and Pond Streets.

Susan Kay suggested this particular measure does not come under 2-9(b). She voiced concern over what the abutter's received showing the broad map with pole numbers and does not accurately show the new locations of the poles. She would like the residents and businesses to know exactly where the poles would be placed and have the opportunity to discuss the locations with Mass Electric if they have a problem with the proposed locations.

Councilor McPherson stated he would like the record to reflect the concern of the resident. He would like Mass Electric to reassure the resident that her driveway will not be obstructed. He also stated that many of the poles are in front of commercial properties. He would like to vote the measure this evening.

Mr. Leary asked the schedule of the pole relocations. Mr. Yepez stated they would like to begin in four to six weeks. Mr. Lacey asked if they are on a time sensitive schedule. Mr. Yepez stated they would like to complete the work before the asphalt plants close. Mr. Smart stated he understands it has a completion date of the end of October. He also asked how flexible Mass Electric would be in the movement of the pole to accommodate the resident. Mr. Yepez stated he sees no problem with working with the resident to ensure the driveway would not be obstructed.

Mr. Connolly asked if they are coordinating with all the utilities and ensuring the old poles would be removed in a timely fashion. Mr. Yepez stated they are coordinating with Verizon and other utilities and will work according to their schedule. They will need the road free of the old poles to do the final paving and striping of the roadway.

Susan Kay stated she has no objection to the project, but would not vote in favor this date as she wants to ensure the neighbors concerns would be agreed to. Mr. Lacey stated they would bring the measure to the next meeting. He suggested Mass Electric work with the resident with concerns before the meeting on September 20, 2004. Mr. Lacey asked the resident to contact him to be sure she is satisfied with the result of her meeting with Mass Electric. Ken DiFazio asked Mass Electric to amend the print to show how far the pole would be moved from her driveway, so there would be no questions as to where it will be located. Joseph Connolly stated that Susan Kay has a good point, but Mr. Yepez will be coming before the council countless times and he should take care of the issue.

A MOTION was made by Susan Kay and was seconded by Colin McPherson to close the public hearing on Measure 04 174 and was UNANIMOUSLY VOTED.

T. J. Lacey introduced the Chairman of the Weymouth Community Events Committee, Barbara Farrell. Barbara Farrell stated Weymouth Day would be held on October 2, 2004. There will be a parade and various events to celebrate the people of Weymouth. They hope to make this an annual event. They will have tours of the Weymouth High School from 3:00 p.m. – 6:00 p.m. From 9:00 a.m. – 12:00 p.m. the Weymouth Fire and Police departments will hold safety events at the Weymouth High School grounds. The Weymouth web site has the complete schedule. They hope to keep unity in the community with these events. Mr. Chuck McMurray displayed the parade route to those present. It begins at Route 53 and Pleasant Street and ends at the new high school. Caroline Lacroix stated they have sent mailings to the public regarding the closing and reopening of the roadway. They will mark the road in advance. Greg Hargadon suggested flyers be sent home with the school children to inform residents. Ms. Farrell stated they would do so along with advertising in the Weymouth News. Caroline Lacroix stated an illuminated sign would mark the area. This would be set up by the Traffic Supervisor, Officer Concannon.

Jane Hackett presented on behalf of the Mayor Measure 04 175 – Appropriate \$3,155.76 from the Waterways Fund to line item 13104495.578.06 for the purpose of repairing two propellers and to purchase spare propellers for the Harbor Master's boat. Balance in the Waterways Fund prior to this appropriation is \$72,306.65.

A MOTION was made by Mike Shanahan and was seconded by Paul Leary to refer Item 04 175 to Budget Management Committee and was UNANIMOUSLY VOTED.

Jane Hackett presented Measure 04 176 – Sharon Morgon Appointment to Community Events Committee. This is a new appointment and the term expires June 30, 2007.

A MOTION was made by Mike Smart and was seconded by Greg Hargadon to refer Item 04 176 to the Budget Management Committee and was UNANIMOUSLY VOTED.

Jane Hackett presented Measure 04 177 – Reserve Fund Transfer Request \$40,000 for roofing repairs to Fire Stations I & II under 2-9(b).

Jeffrey Richards stated the original project was voted through the Construction Steering Committee. The bids came out in excess of the monies originally requested. The low bidder, if awarded, would be Capeway Roofing Systems. Paul Leary stated this originally came in under Item 04 035, which was a large appropriation for \$120,000. T.J. Lacey asked if the scope of work had changed for the increased cost. Mr. Richards stated that after extensive research on the apparatus bay at Station II, they determined that the insulation was wet and the recovery board between the rubber and the tar and gravel section was damaged also. As a result, an alternate was added into the bid.

Susan Kay stated the appropriation was originally for design and construction. She asked if it went right to the design stage. She asked why it went so long to bid. Mr. Richards stated the administration of the Fire Department gave the Construction Steering

Committee a priority list. There was a lump sum appropriated, and the items were completed to the administrations priority.

A MOTION was made by Mike Smart and seconded by Susan Kay to consider Measure 04 177 under 2-9(b) and was UNANIMOUSLY APPROVED.

A MOTION was made by Mike Smart and seconded by Paul Leary to approve Measure 04 177 and was UNANIMOUSLY APPROVED.

Jane Hackett presented Measure 04 178 – Appropriate \$1,000,000 for the Arthur Bilodeau Water Treatment Plant Phase IV Improvements – Item 31 on the Capital Improvement Program of March 2004.

A MOTION was made by Mike Smart and seconded by Paul Leary to refer Item 04 178 to the Budget Management Committee and was UNANIMOUSLY APPROVED.

James Clarke presented Measure 04 160 – Abandonment of Theron Avenue. The request was for the Planning Board to give an opinion on the abandonment question of Theron Avenue off Rockway. It is property that abuts land that is owned by the Commonwealth of Massachusetts. It has recently been sold. The new property owners request it be abandoned. It is a 50' unimproved private way. On the south side is the entrance to the former National Guard Armory. On the north side is the driveway of the Shields MRI building. The Planning Board reviewed this at their meeting on July 20, 2004 and voted to endorse the request of the abandonment of all of Theron Avenue. The board does not have any use for it as part of the town's road system. T. J. Lacey asked of the ownership of the four lots. Mr. Clarke stated a letter dated June 21, 2004 was received from Attorney Gregory Galvin stating his office represents Falconi Realty, LLC, the purchaser of lots 14 and 15, block 431, sheet 37. The new owners request that the portion of Theron Avenue which lies northerly off Rockway Avenue and is between Rockway Avenue and Route 3, be abandoned as the road only exists on paper. Steven Lamiris has purchased lots 24 & 27, which are the two lots south of Rockway Avenue.

T. J. Lacey asked the zoning of the properties. Mr. Clarke stated they are zoned multi-family – R4. Mr. Leary asked if the Town abandons the roadway, does the town still own it. Mr. Clarke stated the Town has no ownership as it is a private way. Mr. DiFazio asked what the objective of abandoning the roadway would be. James Clarke stated the owners have not communicated that to him. The land to the north of Rockway would have to retain a sewer easement for the Town.

Colin McPherson asked if the measure has gone through any committees.

A discussion was held on who has the authority to make the determination. Mr. DiFazio asked if they have the authority to vote on road abandonment. Mr. Lacey stated they do have the authority. They have in the past, based it on the report by the Planning Board. Mr. Connolly asked if the Planning Board was the authority to make the determination. Mr. Lacey stated his understanding was they are to make the suggestion to the Town

Council. The final step would be for the Town Council to vote on the matter. George Lane stated there are two things in operation: 2-206 of the Ordinances and Chapter 40, Section 15 - General Laws, which are both in harmony. This is a reference from the Planning Board to make a determination whether or not there was any public use for the paper street. The report back in written form was that there is no such public need. There is a process. He has made a status check on the title to the property and it is a paper street only and the only reference to the town's interest would be a sewer easement which would be retained. If there was affirmative action by the Town Council 2/3 vote would authorize the Mayor to execute instruments of abandonment to this property. It is coming before the council after receiving report from the Planning Board in accordance with the Ordinance and the Statute, and therefore they can refer it to Committee, and meet at a later date to authorize or not authorize the Mayor to abandon the property.

Council Leary asked what the street to the right of Theron Avenue would be. Mr. Clarke stated it was Donald Street. Mr. Leary asked how lot 16 would gain access to their property. Mr. Clarke stated it has access by Donald Street. If Theron Avenue was to be abandoned, the back end of lot 16 would receive ½ of that abandoned street in front of that lot.

Mike Molisse asked if the Commonwealth of Mass lots were vacant. Mr. Clarke stated they were. Mr. Molisse asked the length of Theron. Mr. Clarke stated it is approximately 850'. The Commonwealth of Mass lots have been sold to S. Ramirez (Lots 24 & 27) and Falconi Realty (Lots 14 & 15). Mr. Connolly asked if there was a road there and if there would be no detriment in abandonment. Mr. Clarke stated that no one currently uses it. Colin McPherson stated that with the R4 property, they do not know what the purchasers intend to do with the newly acquired property. They could be aiding the purchaser by increasing the lot size and thereby possibly building more units on the lots. Mr. Clarke stated that is possible. The two lots on the south are approximately one acre each. The abandonment would add approximately 12,000 s.f. on the southern portion. On the northern portion Shields MRI would receive a portion. This would result in the vacant property receiving approximately 12,500 s.f. in that location. Mr. McPherson asked how much would that translate into units. Mr. Clarke stated it was difficult to say. It depends on the parking requirements, the unit size, and the setback requirements.

A MOTION was made by Mike Smart and was seconded by Arthur Mathews to defer Measure 04 150 to the Ordinance Committee and was UNANIMOUSLY VOTED.

Mr. Clarke stated that if you want an answer as to what is going to be done with the land, you should request the attendance of the property purchaser or their representative.

Joseph Connolly asked why it was referred to Ordinance. He suggested Public Works or economic development.

A SUBSTITUTE MOTION was made by Joseph Connolly and was seconded by Greg Hargadon to defer Measure 04 150 to the economic development and was UNANIMOUSLY APPROVED.

Ken DiFazio asked the President establish the authority by which the committee is allowed to take a vote. T. J. Lacey asked Colin McPherson to take ownership of the matter and he agreed.

James Clarke presented Measure 04 133 – Rezoning request at Libbey Park. This was to allow a change in the type of office use that would also include Medical Offices for the Planned Office Park. A letter dated September 2, 2004 from Paul Dillon, Chair of the Weymouth Planning Board states they did provide appropriate notices and the Planning Board has voted favorable action and forwarded the information to the Town Council.

The President recognized the Chairman of the Budget Management Committee, Ken DiFazio. Mr. DiFazio stated the first three matters involve the Retirement Board. Barbara Costa, Chair of the Retirement Board and Marsha Silva, Director Retirement Board were present. Mr. DiFazio stated the first Measure 04 161 was the acceptance of Legislature regarding laid off Police & Fire personnel. This matter was submitted by the Weymouth Retirement Board on June 21, 2004. It was referred to the Budget Subcommittee. On June 28, 2004 the matter was tabled. On July 28 there was further discussion. On August 9, 2004 they voted unanimous action. The measure reads as follows: The Town of Weymouth accept Chapter 360 of the Acts of 1985 and/or Chapter 235 of the Acts of 1994 that permits laid off police and fire department employees who have been reinstated to purchase credible service in the Weymouth Retirement System equal to the period of layoff. There were several documents provided with the measure from the members of the retirement system. It was voted unanimously in favor.

A MOTION was made by Ken DiFazio and was seconded by Susan Kay for the approval of Measure 04 161 – Acceptance of Legislature regarding laid off Police & Fire personnel and was UNANIMOUSLY VOTED.

Colin McPherson stated that if the employee is laid off and if he is rehired they can buy back that time for retirement. It has negligible impact on the overall retirement payments. It affects approximately ten employees.

Ken DiFazio stated Measure 04 162 is for the Acceptance of the Home Rule Petition. This matter was submitted to the Town Council by the Weymouth Contributory Retirement Board. The matter was initially referred on June 21, 2004. The matter was tabled on June 28, 2004. There was further discussion on July 28, 2004. On August 9, 2004 it was voted unanimously for favorable action. The measure reads as follows: The Town of Weymouth petition the state legislature for a home rule petition which would permit all laid off employees of the Town of Weymouth who are active members of the Weymouth Retirement System at the time of layoff who have been reinstated to purchase credible service equal to the period of layoff or to take any action in relation thereto. Said special legislation to be as follows: An act relative to permitting reinstating Town Employees to purchase credible service for retirement purposes. Any full time employee of the Town of Weymouth whose employment was terminated due to a reduction in force and was subsequently reinstated to his former position within three years of termination

shall be credited with active service for such period of unemployment. Such credited service shall be included as part of his length of service and shall be applied to his seniority and promotional examinations and retirement. Provided however that said employee shall be required to pay into the annuity savings fund of the Weymouth Retirement System in one sum or in installments upon conditions as the Weymouth Retirement Board shall subscribe in amount equal to the accumulated regular deduction otherwise payable by him had he remained an active member in service during said period of unemployment at a rate of compensation he was receiving at the time of the aforesaid termination of employment together with regular interest thereon to his date of reinstatement and provide further that said employees shall be required to pay into the annuities savings fund of the Weymouth Retirement system in one sum or installments upon conditions as Weymouth Retirement Board shall prescribe an amount equal to the accumulated total deductions withdrawn by him, if any, regular interest to the date of reinstatement.

A MOTION was made by Ken DiFazio and seconded by Sue Kay to approve Measure 04 162 and was UNANIMOUSLY APPROVED.

Ken DiFazio presented Measure 04 163 – Acceptance of MGL Chapter 32 Section 20A. This matter was initially referred on June 21, 2004. The matter was tabled on June 28, 2004. There was further discussion on July 28, 2004. On August 9, 2004 it was voted unanimously for favorable action.

A MOTION was made by Ken DiFazio and was seconded by Sue Kay to accept MGL Chapter 32 Section 20A which authorizes indemnification and expenses incurred in the defense of any civil action brought against a member of the Town of Weymouth contributory retirement board which provides as attached (which is Section 20A) and was UNANIMOUSLY VOTED.

Ken DiFazio presented Measure 04 164 – Performance guarantee for Holly Estates subdivision. Mr. Clarke from the Planning Department submitted this measure. Mr. Clarke stated he appeared before the Ordinance Committee and explained the need for the request. He is pleased to announce that he has been working with the DPW and the performance guarantee holder and within the last two weeks they have completed most of the work that must be done. The developer has one last piece that must be done. Many of the items that have been identified have been taken care of.

Ken DiFazio stated the matter was initially referred on June 21, 2004. The matter was tabled on June 28, 2004. There was further discussion on July 28, 2004. On August 9, 2004 it was voted unanimously for favorable action.

A MOTION was made by Ken DiFazio and seconded by Mike Molisse to request the Town of Weymouth approve the expenditure of funds from performance guarantees i.e.: two lenders agreements as follows:

- a) by and between Edward J. Jordan, Trustee of Holly Reality Trust and Rockland Trust in the amount of \$79,500.00.

b) by and between Edward J. Jordan, Trustee of Holly Reality Trust and South Shore Savings Bank in the amount of \$32,500.

In accordance with the provisions of MGL Chapter 41 Section 81U in order to complete deficient items in the Holly Estates Subdivisions (Sheri Lane and Chelsea Way respectively). Furthermore, that the Town of Weymouth authorizes the Planning Board to expend any or all of such funds from the foregoing performance guarantees for the completion of the Holly Estate Subdivision. THE MOTION was UNANIMOUSLY APPROVED.

Councillor Smart stated he was pleased to see the work in that area is finally being completed. He asked if there was a sign off sheet for the residents in that area to be sure all issues have been addressed. Mr. Clarke stated there would not be a sign off sheet.

Councillor Leary presented Measure 04 133 – Rezoning request of Libbey Park. It was referred on June 2, 2004. There was a public hearing on June 14, 2004 and a joint public hearing between the Planning Board and the Council on August 2, 2004. There was no quorum for the Planning Board that date and they proceeded with the public hearing for the Council. They heard from the public on that evening. The Ordinance Committee met on 8/9/04 and recommended favorable action following favorable action by the Planning Board. The Planning Board met on 8/24/04 and voted favorable action.

A MOTION was made by Paul Leary and was seconded by Ken DiFazio for favorable action on Measure 04 133 – Rezoning Request at Libbey Park and was UNANIMOUSLY VOTED.

Mr. Leary stated the original Planned Office Park excluded medical office use. This is a minor change which would allow medical office use in the planned office park. The only office park in the town is the Libbey Industrial Park.

A MOTION was made by Greg Hargadon to recognize Paul Leary under new business agenda and was seconded by Michael Smart and UNANIMOUSLY APPROVED.

Mr. Leary stated he was concerned with the Community Preservation Act.

A MOTION was made by Paul Leary and was seconded by Susan Kay to give the Community Preservation Act a number and refer it to the Budget Management Committee and was UNANIMOUSLY VOTED.

A MOTION was made to adjourn by Colin McPherson and was seconded by Arthur Mathews and was UNANIMOUSLY APPROVED.

Respectfully submitted,
Doreen Teodorson, Recording Secretary

T. J. Lacey, Chairman