

**MINUTES OF THE TOWN COUNCIL**  
**Town Hall Council Chambers**  
**December 6, 2010 - Monday**

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

Also Present:       James Clarke, Director, Planning & Community Development  
                      Robert Luongo, Economic Development Planner  
                      Franklin Fryer, Town Clerk  
                      Kathy Deree, Assistant Town Clerk  
                      Richard Swanson, Internal Auditor  
                      George Lane, Town Solicitor  
                      Paul Haley, Chairman, Board of Assessors  
                      Pamela Pantermoller, Principal Assessor  
                      Walter Flynn, Chairman, Planning Board  
                      Sandra Williams, Planning Board  
                      David Chandler, Planning Board  
                      Mary Akoury, Planning Board

Recording Secretary:   Mary Barker

President Mathews called the Town Council Meeting to order at 7:30 PM. Town Clerk Fryer called roll, with all members present.

**ANNOUNCEMENTS**

Councilor Pap reported that due to the efforts of the Mayor, the structure on Kibby property will be demolished by Mr. DeVito's company at no cost to the town. He also congratulated the St. Jerome's Robotics Team, which has made it to the state finals for the second year.

Councilor Molisse reported that the Christmas in Columbian Square Christmas festivities will be held on December 11, 2010 from 4-8 PM.

**MINUTES**

**Budget/Management Committee Meeting of November 8, 2010**

A MOTION was made by Vice President O'Connor to ACCEPT the minutes of the November 8, 2010 Budget/Management Committee meeting and was seconded by Councilor Smart.

UNANIMOUSLY VOTED.

**Town Council Meeting of November 8, 2010**

A MOTION was made by Vice President O'Connor to ACCEPT the minutes of the November 8, 2010 Town Council meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Ordinance Committee Meeting of November 15, 2010**

A MOTION was made by Vice President O'Connor to ACCEPT the minutes of the November 15, 2010 Ordinance Committee meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Budget/Management Committee Meeting of November 15, 2010**

A MOTION was made by Vice President O'Connor to ACCEPT the minutes of the November 15, 2010 Budget/Management Committee meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**Town Council Meeting of November 15, 2010**

A MOTION was made by Vice President O'Connor to ACCEPT the minutes of the November 15, 2010 Town Council meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

**PUBLIC HEARINGS**

**10 102-Zoning Amendment for Clapp Memorial (203 Middle, Map 22, Block 291, Lot 9),**

*Joint with Planning Board; continued from November 8, 2010*

A MOTION was made by Vice President O'Connor to Continue the Public Hearing and was seconded by Councilor Smart. This measure was published on October 20 and 27, 2010. UNANIMOUSLY VOTED.

The Planning Board meeting of December 6, 2010 was called to order by Chairman Walter Flynn. A MOTION was made by David Chandler to continue the Public Hearing and waive the reading of the Public Notice and was seconded by Sandra Williams. UNANIMOUSLY VOTED.

President Mathews requested Jim Clarke provide a brief update for the Council. Water, traffic and DPW issues were to be reviewed by the department prior to the continuation. Mr. Clarke reported that the water and sewer usage estimates requested by the DPW were received and reviewed. He reviewed the information provided by the developer for proposed water usage. Superintendent Chiasson has certified that the town has adequate resources to accommodate the project, 785,000 gallons per day.

Traffic Engineer, George Bezkorovainy, has reviewed the traffic study submitted by the developer and noted his concerns with deficiencies in the study. Additional information from the traffic consultant for the developer was received today. Jim Clarke reviewed the initial report which did not include the retail space and traffic generated from it. The traffic engineer noted that the current trip generation and distribution report is a very conservative analysis with respect to impact to the surrounding neighborhood. The site distance analysis was appropriately reviewed. The level of service analysis will either be a "B" or a "C" in afternoon and evening. Levels of "D" or above are acceptable. The street network can accommodate the traffic generated by the project.

President Mathews noted the analysis was based on the existing pre-timed signal and asked if it was factored in. Councilor Molisse noted the study focuses on Middle Street; however, most of the traffic will be generated on Broad Street. Mr. Clarke responded that Broad Street was studied as well.

Mr. Clarke then reviewed the title of the property. The Town of Weymouth has never owned the property. Edwin Clapp built it in 1903 and in 1905, he deeded it to a nonprofit association. At some point, in the 1980's the association merged with the South Shore YMCA. It was originally unregistered land which was registered in the 1950's. Solicitor Lane corroborated Mr. Clarke's information. It is a court adjudicated title; certificate of title registered with Land Court. There is no restriction placed on the title that would indicate that it is impressed with a particular trust or restriction on the transfer. The current owner, International Church of the Foursquare Gospel, has owned the building since 1993.

Sandra Williams noted that the Planning Board passed several motions concerning the property at its meeting of 2/27/08; included in the motions were a restriction that the property, if developed, would only serve as owner occupied dwellings- condominiums. At the last public hearing the developer left the impression the dwellings could be apartments. Another unanimous decision by the Planning Board was that the condominiums have a deed restriction indicating all owner occupied units. She provided the Planning Board meeting minutes from February 27, 2008 for the record.

Mr. Barry and Atty. Jennings were invited to the table. Councilor Smart asked what Mr. Barry's response is to the Planning Board's restrictions. Mr. Barry did not recall the restrictions voted by the Planning Board as mandatory or binding. His intent is to build the units as condominiums with separate utilities, but would not be able to rule out renting the units as apartments, given the prevailing economic climate.

**Irving Murstein, 463 Broad St.** spoke in support of the project. He noted the wetlands, and the former dry wells in the area. He recommended the developer consider installing a dry well.

**Janet Walsh, 97 Chard St.** spoke in opposition to the project, especially considering the recent fires in town which required recruiting fire personnel from surrounding communities. \$175,000 is not sufficient monies to make up for the lack of fire personnel. Safety levels in the town will be decreased with the addition of more condo units.

**Patricia Dunn, 19 Center St.** spoke in opposition to the project. There is no place in the area for children to play. There is a density issue in the area and a lack of an open fire station in the neighborhood. She anticipates property values will decline in the area.

**Linda McDonald, 58 Laurel St.** spoke in favor of the project. She likes the city feel of the neighborhood-smart growth is a return to what used to be. The historic building is not necessary for youth facilities as there are sufficient resources in town. Many other historic buildings have been restored to condominiums. The project should go forward; it may spur new interest in empty businesses in Central Square. Mr. Barry has met his obligations under the law.

**Kerry Dunn, 11 Lakehurst Ave.** spoke in opposition of the project. There are never enough activities for the children in the town and the building was intended for that purpose.

**Harvey Welch, 674 Pond St.** spoke in opposition to the project. He has lived in denser conditions in apartment buildings and moved here specifically for the town feel. Living in

congested conditions does not improve life.

**Art Bleakney, 503 Broad St.** spoke in opposition to the project, and brought up concerns with school crowding, increased water usage, traffic, and increase in water runoff with the asphalt.

**John Robinson, 263 Middle St.** spoke in disagreement with the results of the water/sewer usage report reviewed by Mr. Clarke. He notes he has had problems for 30 years with sewerage overflows on his property and adding more condominium units will not help.

**Ann Hilbert, 45 Doris Dr.** spoke in opposition of the proposal. She asked why the traffic (speed) study was conducted on a Sunday. Mr. Barry responded that the study was conducted from Thursday through Sunday. Ms. Hilbert also asked why the water/sewer estimate was drastically different from what the Ordinance Committee provided at its last meeting. President Mathews responded that the rates were determined differently, but were within the same limits. He also noted the project will keep the town within the safe yield limit.

**Art Doyne, 16 Revere Rd.** spoke in opposition. He does not agree with the government's determination of smart growth overlay as it erodes the quality of life. Weymouth already has its share of condominiums and low income housing. Mr. Barry is not responsible for the overdevelopment in Weymouth; he is following all of the legal demands.

**Jane Latus of 164 Candia St.** spoke in opposition. She noted her neighbor Evelyn Gallagher was unable to attend and has voiced her opposition as well. She asked if the Planning Board received a legal opinion as to whether the reconsideration of their vote at the 3/16/10 meeting was legal. Mr. Clarke responded that the Planning Board is reviewing the matter and will discuss it with the town solicitor. She does not believe that increased density will improve the quality of life, especially in East Weymouth. She provided a handout to the Council. She noted the town needs an immediate overhaul of the zoning and a moratorium on building. Outdated, inadequate and haphazard zoning needs to be curbed. She reviewed the various R-3 projects built in the surrounding area. Councilor Harrington requested that the speaker keep her comments relevant to the project and not meander through the neighborhood. She also noted her concern if there is a funeral in progress, her concern with more building when there is an abundance of empty property.

**Tricia Pries, 15 Woodbine Rd.** spoke to Councilor Harrington's comment to the prior speaker. She also thanked Councilor Smart for his comment about "disingenuous developers." She noted that she would like to see the town of Weymouth remain a town. She is not against the development, but is in favor of maintaining trees and open space.

**Scott Walsh, 87 Chard St.** spoke in opposition of the project. He noted that the developer does not reside in this town. The recent fires in town could be disastrous in one of the developer's projects; there aren't enough fire resources for the town. He will provide pictures to the town of the current project Mr. Barry is building across the street and the alleged code violations. Mr. Barry responded that he walks the neighborhood anytime he purchases a piece of property to get a feel for the project. He has built in other surrounding towns. President Mathews asked both parties to keep their comments relevant to the project, and not with personal comments. Mr. Walsh asked why the developer couldn't redevelop the building without adding other structures.

**Stuart Barbarian, 28 Putnam St.** spoke in opposition of the project. He is concerned with the owner's ability within the next few years to sell the condos. Mr. Barry noted that he will not be able to keep empty space and doesn't understand why the owner's can't rent the properties in East

Weymouth. He noted he would be able to rent out any of these properties. Mr. Barbarian asked with the proximity to the Union Towers property if the town would be better served using the site for senior housing.

**Paula Cushner, 626 Broad St.** spoke in opposition of the rezoning proposal. The Central Square neighborhood is a historically significant area and the historic character and design should be a prime consideration with any redevelopment proposal.

**Lucy Kalajian, 49 Middle St.** spoke in opposition. She appealed to the “townsmanship” of the Council and the Planning Board. The project across the street (by the same developer) is an abomination that should not have been allowed. She asked the Council to restore dignity to the town. She urged the Council not to allow the developer to bring in something the residents do not want. The Clapp Memorial Building could be used to hold public meetings.

**Joe O’Neil, a developer** from Plymouth spoke in support of the project. He notes the opposition to development and that the current owner is not paying taxes to the town. There are other developers interested, and something is going to happen with the property. The zoning is very restrictive. Mr. Barry will do a good job with the property. There are other churches interested, which will not increase the tax rolls. The only development on the South Shore is presently retail.

**Ed Shine, 186 Puritan Rd.** spoke in support of the project. He noted he wouldn’t like it in his neighborhood, but the town opened the doors by bringing in the trains. Adding to the population and building condos will benefit the town and bring in tax dollars.

**Janet Walsh** spoke again; she brought up the special restrictions for historical areas included in the zoning. She also noted that businesses close lack of parking and it will get worse with more building.

**Harvey Welch** spoke again; he noted Weymouth meets its limit for low income housing criteria, and there is no need to use 40R to develop property the way it should be. It detracts from the neighborhood.

**An unidentified woman** spoke. She noted the traffic study needs to be done on Broad Street and when the streets are busy.

**Ann Hilbert** spoke again. She asked that the town hire someone to redo the traffic study instead of relying on the developer’s study.

**Brian Gregory, 185 Union St.** spoke in opposition to the concept of high density living. He grew up in a dense area and when he was younger, the overcrowding encouraged the kids to get into mischief. He also noted the increase in traffic since his return from the military.

**Tricia Pries** spoke again. She asked how long the low income inventory remains on the rolls after development. Mr. Clarke responded that it will be in perpetuity. She also asked if there was any information available for owner -rented versus corporate owner rental. She also asked what town entity has the fiduciary responsibility to the town. She questions what the break-even point is where the tax benefits no longer cover the cost of town services. When it does cost the town, why not just buy the property for a town building? Mr. Mathews noted that the Council will consider all comments to deliberate.

**Jane Latus** spoke again. She is still concerned with the question to the Planning Board- if the

vote was not legal, the Mayor would not have submitted the proposal to the state, and the Board would need to go back and start again. She also asked why Jim Clarke speaks for the Planning Board. Walter Flynn responded that the vote for the reconsideration was legal. President Mathews noted Solicitor Lane will review the issue when the Board convenes to further deliberate.

Attorney Jennings noted he was pleased as was Mr. Barry with the level of public involvement. The sense from the comments is that most people are opposed to development in general, but there is a need to be wise about the type of development. Mr. Barry is proposing the re-purposing of an existing building. It has tangible benefit to the town. He reminded the Council and Planning Board that the project will put tax dollars into the town, as well as mitigation money for revitalization of Central Square from Mr. Barry.

At 9:20 PM, a MOTION was made by Vice President O'Connor to close the Public Hearing and was seconded by Councilor Smart. Councilor Harrington apologized for his lack of patience during the hearing and noted his frustration. UNANIMOUSLY VOTED.

A MOTION was made by Mary Akoury to CLOSE the Planning Board Public Hearing and was seconded by David Chandler. UNANIMOUSLY VOTED.

AT 9:23 PM, there being no further business, a MOTION was made by Mary Akoury to ADJOURN the Planning Board meeting and was seconded by David Chandler. UNANIMOUSLY VOTED.

President Mathews noted the Planning Board has twenty- one days to submit its recommendation to the Council and the Town Council must vote the project within ninety days of the close of the Public Hearing.

#### **10 125-Tax Classification**

A MOTION was made by Vice President O'Connor to open the public hearing and was seconded by Councilor Smart. This measure was published on 11/26/2010 UNANIMOUSLY VOTED.

Paul Haley, Chair and Pamela Pantermoller of the Board of Assessors reviewed the re-evaluation of property that was just completed. A full re-evaluation of all property was undertaken and submitted to the DOR. The DOR has certified the values. In general, residential property has declined by 3 percent; condominium values remain flat, and commercial property has also seen a decline by 3%. The board is requesting to shift the burden from residential property owner to the commercial and industrial owners at the maximum allowed by law which is 50%. He provided a packet for the Council to review indicating how the tax rate will be applied to the properties in town. Without shifting the burden the residential owners would endure 83% of the ultimate tax levy. By shifting the burden, the tax rate to the residential owner will be \$11.70 for 2010 (from \$11.09 in 2009), and the commercial rate will be \$19.42 for 2010 (from \$18.38 in 2009).

It was pointed out that the tax rate in Weymouth is lower than any of the surrounding communities. The appeal process was reviewed of which ultimately appeals are made to the Appellate Tax Board. He noted a change in the DOR regulatory requirements; single family lot size is based on 25,000 square feet.

Councilor Molisse asked the number of single family homes in the town. Mr. Haley responded 13,080.

Councilor DiFazio noted that due to a decline in values, and a shift, even with the higher tax rate

many owners will see a decline in their tax bills.

President Mathews asked for the new growth figure; Mr. Haley responded it is \$730,000 and is due mostly to utilities operating in the town.

**Linda McDonald of 58 Laurel St.** asked if Weymouth doesn't have more upscale businesses than some of the surrounding towns because it shifts the tax burden on to the commercial properties. Mr. Clarke responded that businesses looking to expand outside of Weymouth have not cited that as a reason.

Councilor Pap noted that the town requested a shift last year of 1.55; and Mr. Haley responded that it was not allowed by the DOR.

Councilor Harrington noted that Weymouth is not paying enough taxes to support itself. When budget season comes around again, it will be evident when cuts will need to be made. The town needs to come up with a way to increase revenue. An override of proposition 2 1/2 is needed, but it must come from the residents and cannot come from the council.

Councilor Pap asked if the tax bills can be modified to solicit additional revenue. Mr. Haley responded that the bills have already gone out. Vice President O'Connor noted any change to the bill requires an act of legislation.

At 9:50 PM, a MOTION was made by Vice President O'Connor to close the public hearing and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

## **REPORTS OF COMMITTEES**

A MOTION was made by Vice President O'Connor to take "Reports of Committees, Budget/Management" out of order and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

### **Budget/Management Committee- Chairman Kenneth DiFazio**

#### **10 125-Tax Classification**

This item was referred to the committee on November 15, 2010. The committee met on December 6, 2010 and voted unanimous favorable action. A MOTION was made by Councilor DiFazio to amend the language of the measure, as it was submitted prior to the recommendation for a 1.5 shift; insert "1.5" after the word "shift" in the measure. This was seconded by Vice President O'Connor and UNANIMOUSLY VOTED.

On behalf of the Budget/Management Committee, a MOTION was made by Councilor DiFazio that the Town of Weymouth adopt a tax shift of 1.5 for classification purposes and that no residential exemption be implemented for fiscal year 2011. Motion was seconded by Vice President O'Connor. A roll call vote was taken: Councilor Conlon-Yes; Councilor DiFazio-Yes; Councilor Harrington-Yes; Councilor Lacey-Yes; Councilor McDonald-Yes; Councilor Molisse-Yes; Councilor Pap-No; Councilor Smart-Yes; Councilor Whitaker-Yes; Vice President O'Connor-Yes; President Mathews-Yes; Vote PASSES 10/1.

#### **10 127-Appointment to the Scholarship Committee-Karen McCaffery**

This item was referred to the Committee on November 15, 2010. The committee met on December 6, 2010 and voted unanimous favorable action.

On behalf of the Budget/Management Committee, a MOTION was made by Councilor DiFazio that the Town of Weymouth appoint Karen McCaffery of 35 Mulcahey Lane to the Scholarship Committee and was seconded by Councilor Smart. Her term will expire on June 30, 2013. UNANIMOUSLY VOTED.

**10 128-Appointment to the Zoning Board of Appeals as Alternate Member-Robin Moroz**

This item was referred to the committee on November 15, 2010. The committee met on December 6, 2010 and voted unanimous favorable action.

On behalf of the Budget/Management Committee, a MOTION was made by Councilor DiFazio that the Town of Weymouth appoint Robin Moroz of 56 Pinecliff Road to the Zoning Board of Appeals (as Alternate Member) and was seconded by Councilor Smart. Her term will expire on June 30, 2011. UNANIMOUSLY VOTED.

**10 129-Appointment to the Redevelopment Authority-Ronald Shaw**

This item was referred to the committee on November 15, 2010. The committee met on December 6, 2010 and voted unanimous favorable action.

On behalf of the Budget/Management Committee, a MOTION was made by Councilor DiFazio that the Town of Weymouth appoint Ronald Shaw of 61 Weybosset Street to the Redevelopment Authority and was seconded by Councilor Smart. His term will expire on June 30, 2012. UNANIMOUSLY VOTED.

**Ordinance Committee- Chairman Michael Smart**

**10 111-Rezoning Request for Weymouth Landing**

This item was filed with the Town Clerk's office on September 30, 2010 and submitted to the Ordinance Committee on October 4, 2010. It was forwarded to the Planning Board on October 7, 2010. The Planning Board met on October 27 and November 3, 2010. The Planning Board issued its report to the Town Council on November 29, 2010 with a recommendation for favorable action. The Ordinance Committee met on November 15 and on November 29, 2010 and voted unanimous favorable action. A joint Public Hearing was held with the Planning Board on November 3 and reconvened on November 27, 2010.

On behalf of the Ordinance Committee and at the request of the Weymouth Planning Board a MOTION was made by Councilor Smart that the Town of Weymouth accept the proposed amendment to the zoning in two parts. Part one would create the Village Center overlay district and part two amends the Zoning Map in the Weymouth Landing area by changing some parcels to residential R-2 and to designate the boundary of the Village Center overlay district. This motion was seconded by Vice President O'Connor.

A two-thirds majority vote of the Council is required for this measure to pass. There was a brief discussion. Councilor Lacey noted this is a terrific opportunity for the Landing. Councilor Pap commended Councilor Lacey for his efforts, and all parties who worked on it.

Councilor Conlon asked for some clarification on height restrictions with the proposed zoning amendment.

Councilor Whitaker praised the cooperative effort between the towns of Braintree and Weymouth. A roll call vote was taken: Councilor Conlon-Yes; Councilor DiFazio-Yes; Councilor Harrington-Yes; Councilor Lacey-Yes; 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.

**09 038-Proposed Ordinance “Neighborhood Property Preservation”**

This measure was referred to the Ordinance Committee on April 24, 2009. The committee met on June 10, 2009 and again on November 21, 2009. At the November 21 committee meeting a request was made to withdraw the item.

On behalf of the Ordinance Committee, a MOTION was made by Councilor Smart to WITHDRAW measure number 09 038 and was seconded by Vice President O'Connor. There was a brief discussion. Councilor Harrington reviewed the history behind the measure. It was originally designed to create minimum standards that homeowners and business must adhere to and was a result of many unattended properties in town. There is a multi-media approach to inspection of property. at the time the measure was introduced, there were five blighted properties in Councilor Harrington's district, and the approach has seen some success in correcting these. UNANIMOUSLY VOTED TO WITHDRAW.

**ADJOURNMENT**

A Special Town Council meeting will be held on Monday, December 13, 2010, at 7:30 PM. Councilor McDonald noted there will be an Environmental Committee meeting prior to the Town Council Meeting to address resident concerns regarding the Fore River Bridge proposal.

At 10:20PM, there being no further business, a MOTION was made by Vice President O'Connor to ADJOURN and seconded by Councilor Smart. UNANIMOUSLY VOTED.

Respectfully Submitted by: Mary E. Barker

Approved by:

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Council President Arthur Mathews