

SPECIAL TOWN COUNCIL MINUTES
Town Hall Council Chambers
Zoom # 895 6305 7748
January 31, 2022, Monday

Present: Arthur Mathews, President
Michael Molisse, Vice President
Lisa Belmarsh, Councilor
Pascale Burga, Councilor
Kenneth DiFazio, Councilor
Fred Happel, Councilor
Christopher Heffernan, Councilor
Maureen Kiely, Councilor
Gary MacDougall, Councilor

Absent: Greg Shanahan, Councilor

Also Present: Kathleen Deree, Town Clerk
Joseph Callanan, Town Solicitor
Rob MacLean, Director of Libraries
Ed Masterson, Retirement Board
Joe Davis, Chair of the Retirement Board

Recording Secretary: Mary Barker

President Mathews called the meeting to order at 7:30 PM. After the Pledge of Allegiance, Town Clerk Kathleen Deree called the roll, with Councilor Shanahan absent while he recuperates from a recent surgery.

MINUTES

Town Council Meeting Minutes of January 18, 2022

Vice President Molisse motioned to approve the minutes from the January 18, 2022 Town Council meeting and was seconded by Councilor Kiely. Unanimously voted.

Councilor Molisse motions to take “Reports of Committees” out of order and was seconded by Councilor Kiely. Unanimously voted.

REPORTS OF COMMITTEES

Budget/Management Committee-Chair Michael Molisse

Chair Molisse reported that the Budget/Management Committee met on January 31, 2022 to deliberate the following measures:

22 003- Library Line Item Transfer

This measure was referred to the Budget/Management Committee on January 18, 2022. The committee met on January 31, 2022 and voted to forward the measure to the full town council with a recommendation for favorable action.

On behalf of the Budget/Management Committee, Vice President Molisse motioned to approve measure 22 003; that that the Town of Weymouth transfer the sum of \$4,000 from Buildings/Grounds Maintenance Salaries to Overtime. Councilor Kiely seconded the motion. Councilor Belmarsh confirmed the funds are available within the library budget. Unanimously voted.

22 006- Increase in COLA base for Retirees

This measure was referred to the Budget/Management Committee on January 18, 2022. The committee met on January 31, 2022 and voted to forward the measure to the full town council with a recommendation for favorable action.

On behalf of the Budget/Management Committee, Vice President Molisse motioned to approve measure 22 006; that the Town of Weymouth, through Town Council and with the approval of the Mayor, increase the maximum base amount on which the cost-of-living adjustment is calculated from \$12,000 to \$13,000 as of July 1, 2022. Councilor Kiely seconded the motion. Unanimously voted.

22 007- Appointment Cultural Council-Debbie Courteau

This measure was referred to the Budget/Management Committee on January 18, 2022. The committee met on January 31, 2022 and voted to forward the measure to the full town council with a recommendation for favorable action.

Vice President Molisse reported that Ms. Courteau was present at the Budget/Management Committee's meeting earlier, but due to a prior commitment, she could not stay for the Council meeting.

On behalf of the Budget/Management Committee, Vice President Molisse motioned to approve measure 22 007; that the Town of Weymouth, in accordance with section 2-10 of the Town Charter, appoint Debbie Courteau of 201 Lake Street to the Cultural Council for a 3-year term to expire on June 30, 2025. Councilor Kiely seconded the motion. Unanimously voted.

22 008- Appointment Board of Zoning Appeals Alternate-Russell L. Drysdale, III

This measure was referred to the Budget/Management Committee on January 18, 2022. The committee met on January 31, 2022 and voted to forward the measure to the full town council with a recommendation for favorable action. Mr. Drysdale is looking for more opportunities to get involved, and was previously involved with MEMA, Charter Review Committee and is currently serving on the Southfield Advisory Board.

On behalf of the Budget/Management Committee, Vice President Molisse motioned to approve measure 22 008; that the Town of Weymouth, in accordance with Section 2-10 of the Town Charter appoints Russell Drysdale, III of 475 East Street as an Alternate to the Board of Zoning

Appeals for a 2-year term to expire on June 30, 2024. Councilor Kiely seconded the motion. Unanimously voted.

22 009- Appointment Board of Zoning Appeals Alternate-Jonathan Lynch

This measure was referred to the Budget/Management Committee on January 18, 2022. The committee met on January 31, 2022 and voted to forward the measure to the full town council with a recommendation for favorable action. Mr. Lynch was invited to the table and he explained that he is a real estate attorney who resides in Jackson Square.

On behalf of the Budget/Management Committee, Vice President Molisse motioned to approve measure 22 009; that the Town of Weymouth, in accordance with section 2-10 of the Town Charter appoint Jonathan Lynch of 17 Grove Street as an Alternate to the Board of Zoning Appeals for a 2-year term that will expire on June 30, 2024. Councilor Kiely seconded the motion. Unanimously voted.

22 010- Appointment Board of Library Trustees-Tracy Muniz-Gately

This measure was referred to the Budget/Management Committee on January 18, 2022. The committee met on January 31, 2022 and voted to forward the measure to the full town council with a recommendation for favorable action. Ms. Muniz-Gately was invited to the table and she explained all three of her children are graduates of WHS and currently enrolled in college, so at this time she has free time and wants to give back to the town.

On behalf of the Budget/Management Committee, Vice President Molisse motioned to approve measure 22 010; that the Town of Weymouth, in accordance with section 2-10 of the Town Charter, appoint Tracy Muniz-Gately of 12 Montcalm Street to the Board of Library Trustees for a 3-year term to expire on June 30, 2023 (filling the seat vacated by the resignation of D. Paulo). Councilor Kiely seconded the motion. Unanimously voted.

22 011- Appointment Community Events Committee-Mathew Murray

This measure was referred to the Budget/Management Committee on January 18, 2022. The committee met on January 31, 2022 and voted to forward the measure to the full town council with a recommendation for favorable action. Mr. Murray was invited to the table and he explained that he already serves on the 4th of July Committee, and this should be a good fit.

On behalf of the Budget/Management Committee, Vice President Molisse motioned to approve measure 22 011; that the Town of Weymouth, in accordance with section 2-10 of the Town Charter appoint Matthew Murray of 1805 Commercial Street to the Community Events Committee for a 3-year term to expire on June 30, 2022 (filling the seat vacated by the resignation of R. Rizzo). Councilor Kiely seconded the motion. Unanimously voted.

22 012- Appointment Board of Health-Manan Patel

This measure was referred to the Budget/Management Committee on January 18, 2022. The committee met on January 31, 2022 and voted to forward the measure to the full town council with a recommendation for favorable action. Mr. Patel was invited to the table. He explained he has been a resident since 2006. With the current health crisis, he thought it was a good idea to volunteer on the Board of Health.

On behalf of the Budget/Management Committee, Vice President Molisse motioned to approve measure 22 012; that the Town of Weymouth, in accordance with section 2-10 of the Town Charter appoint Manan Patel of 34 DF Haviland Lane to the Board of Health for a 3-year term to expire on June 30, 2025. Councilor Kiely seconded the motion. Unanimously voted.

RESIDENT AND COMMUNITY COMMENT

Amy Kabilian of 7 Kipling Road

Ms. Kabilian was invited to the table. She read a prepared statement:

Good evening and thank you for letting me come in front of the Council yet again! I am here tonight to give you an update on what has been happening with the billboard. Currently both sides of the billboard are fully operational despite that Cove has not met all obligations from the town.

I know you have heard information from both the administration and other Council members so I will try to give you the neighborhood perspective. On 1/8/2021 the Mayor signed a new agreement with Cove. There were many reasons a new agreement was needed but one of them being that Cove, the town, and the neighbors signed an initial remediation agreement in December 2019. Cove made many promises (all listed in the current agreement) and that was to be completed by June 2020. During that time Cove did not perform on any of their promises. Obviously, we were upset. When we asked Cove why they would not fulfill any of the promises, that they signed a document that said you would, they said it was not legally binding and didn't have to. At this point they were running the board and making money. As a result, the mayor signed this "legally binding" contract over a year later. Now we could legally hold them to these promises. As many of you know we as neighbors were concerned about Cove performing under the new contract. However, the agreement stated that while Cove was meeting their obligations the board would be off, so the board was shut off in January 2021.

*1/19/2021- Mayor presents a power point presentation to this council regarding the new agreement. on page 9 it states **What happens if Cove doesn't perform? There are 2 bullets under the title:***

- If Cove does not complete the mitigation by 9/30/2021, the sign at 611 Pleasant Street will come down.*
- If Cove turns the sign on for any reason prior to completing the work, they will be in breach of the legally binding agreement that is a condition of their zoning approval.*

As neighbors we have been quietly working with the town and Cove to get the work done. We tried our best to remain quiet and trust the process would work out. There were many bumps in the road but we continue to work with the town and Cove because quite frankly we all just wanted this done and behind us. As the deadline approached it became clear Cove would not meet the timelines.

On 9/28/2021 David Sterett – Attorney for Cove writes:

I am writing to you to formally request an extension of time for Cove Outdoor, LLC ("Cove") to complete its required remediation related to the electronic billboard at 611 Pleasant Street. He asked for an extension to November 30, 2021.

On October 6th the town responded. Solicitor Callanan met with the neighbors prior to his response so we have a clear understanding of what the town and neighbors wanted if this was granted. This included completing all items, giving the neighbors 72 hours' notice when testing the billboard (or face a fine since they were just turning it on whenever they want to test and that was a breach in the agreement, remember the board was not supposed to be on) Cove did not respond.

10/26/2021 in response to cove asking to turn it on for testing Solicitor Callanan writes:

before the Town could consider approving your request, we need a response from Cove as to the conditions under which the Town would consider extending Cove's time to perform. We sent those conditions to you three weeks ago. We have yet to receive any substantive reply.

If we do not hear from Cove before Friday, then we will presume Cove will not agree to the Town's conditions. In that case, the Town will then simply withdraw its offer and deny Cove's request for an extension of time. After that, we ask Cove to surrender its permits according to the amended agreement Cove signed in January. HE WRITES:

Please let us know Cove's response to the Town's conditions before Cove turns the billboard on once again in breach of the amended agreement.

10/29/21 their lawyer sent a lengthy email.. part of it says extension issue: Contrary to prior communications, Cove is not requesting a formal extension to November 30, 2021. On September 30, Cove had completed everything within Cove's power to complete. We continue to work, in good faith, to complete the last couple of tasks where we do not control the outcome... ..

Meanwhile work on the signs continues, they turn the billboard on and off whenever they want and are supposedly working out the last of the remediation...we remain quiet because again, we think we are almost done, we ALL want this to be done and over.

Next, we have a neighborhood meeting to see the SOUTH FACING sign on 11/18/2021 – this meeting was a disaster and resulted in Cove literally stomping off. Homes we thought were "blacked out" were not and the transition zones appear to not have any transition. It was clear the South facing side of the billboard was not performing as promised. Cove is maintaining that nothing is wrong with this side of the billboard, and is refusing to address it and it is visibly clear there is an issue.

1/13/2022- we get an email that states it will be on tomorrow, Friday, 1/14/2022 and it was! The North facing side of the billboard has been more complicated, the light blocking technology was not working, the billboard had to be re-angled, and louvers were placed on it- the right side of the billboard has 8 mm louvers and the left side now has 10mm louvers to help block the light.

12/16/2021 – testing occurs on that side of the sign despite the town telling them not to, neighbor Ed Palmer was there.

Unfortunately, the light blocking technology is still not working on either side of the billboard as promised. And currently both boards are operating, It is difficult to explain but I will try.

For the north facing side. The new louvers are helping a little but now Fortmetco thinks the light is actually bouncing off the louvers since they have a shiny finish, therefore they are suggesting new louvers with a matte finish be put on the billboard, they will work on this in Atlanta and hopefully install by late March is what we were told. Currently we see a green glow from that side of the billboard, this is confusing to explain but apparently on that side of the billboard only blue and red diodes are blocked so we see green and then anything white appears to be green because they can't block those diodes on that side.

For the South Facing side- when we had the neighborhood testing it was clear it wasn't performing. Currently we see a red/pink glow from the billboard. This side does not have the additional louvers. Apparently on this side of the billboard they cannot block the red/blue (opposite of the other side of the board) so we see the red glow from the billboard. This information was relayed to one of my neighbors by a Fortmetco employee. Also the employee stated that the sign should operate at 40nits at night for the technology to operate best, however it is being operated at 100nits currently.

Just a couple last points.

- 1. The Billboard Relocation Overlay District is established to provide for the removal and relocation of pre-existing, legally established billboards to new locations while achieving an overall reduction in the number of billboards throughout the Town. The town is not meeting these objectives and looking into the future, there does not seem to be any "reduction".*
- 2. Cove has been continually playing games at the neighborhood's expense. They haven't kept promises, they would turn the billboard on and off for testing as they wanted without giving the neighbors any notice (we asked for 3 days and they agreed and then never did it), this happened on more than 10 occasions. They asked for an extension, oh wait they didn't ask for one. We have learned Cove is only and will only act in their best interest.*
- 3. Neighbors and the town have spent countless hours on this issue. I have personally met with the town solicitor, town council members and other employees for 100's of hours on this issue- is this how we want our tax dollars spent?*
- 4. We have waited almost 3 years for cove to do what they say, how much longer should we plan on waiting? What happened to the administration telling us If Cove does not complete the mitigation by 9/30/2021, the sign at 611 Pleasant Street will come down?*
- 5. Cove has not been a good business partner to the town, why are we still doing business with them? Why are we going to do more business with them and let them build another billboard? When will the 3a billboards or the route 18 billboards be addressed? This was a big reason the zoning was changed*

We as neighbors are once again asking for help, now is the time to act on the contract and ask COVE to surrender the permits. They have been in breach of the contract over and over again and now the ultimate slap in the face is they turned the billboard on even though THEY KNOW it is not performing , and THEY KNOW it is in breach of the contract and THEY KNOW they have not finished their obligation to the neighbors and the town.

*Last, and I am quoting this from many other times I have presented to the council
When does the neighborhood come first, when do we hold Cove accountable for what they promised, when do we get some relief from the constant burden this billboard has brought not only to my neighborhood but my family because of the time I have spent fighting it.
Thank You again for your support.*

President Mathews thanked Ms.Kabilian for a thorough presentation and said it is disappointing to hear this. His patience with Cove is gone, and he can only imagine how the neighbors feel.

Councilor Burga added that she is sorry to hear the light blocking technology has not performed as they hoped. What mitigation specifically hasn't been completed? President Mathews responded that the solicitor sent Cove a letter that listed the specific details of the violations.

Solicitor Callanan responded that there were twelve items required in mitigation to the neighbors. Ms. Kabilian's summary is fantastic. The board is supposed to be blacked out; not pink on one side and green on the other. The houses in the transition area are not blocked out. The third issue is how bright the blackout area is. They also were obligated to plant trees on the Bristol side so that after the boards were lowered the residents would still have a visual barrier. No trees were planted and Bristol installed a berm. The council package included a five-page notice of default, which he will now supplement, since Cove turned on the second side of the billboard.

Councilor DiFazio thanked the solicitor for issuing his letter. In two years that the council has been involved, this is the most aggressive action the town has taken. This puts Cove on notice and is the first step towards terminating the agreement. He understands Cove has not responded yet, but he is glad to see the Council is already drafting a letter. This puts them in the best position in two years.

Councilor Happel reminded the council that when he asked where they could look at the light blocking technology in practice, he was told the closest one is in Pennsylvania. When they asked about how it works, they were given a presentation with a piece of paper and a lamp. He is not surprised it isn't working.

Councilor Heffernan noted it's been a long journey. Peter McClary acted as though light blocking technology was the easiest thing to do. If they terminate the contract, they will look for intent. There has not been any intent to work positively with the neighborhood. That is what angers him the most.

Councilor MacDougall directed several questions to Ms. Kabilian. He asked if the light blocking technology is not working at all? Ms. Kabilian responded no. He asked what does she see as her best outcome? Is removing the board completely from 611 the right solution? She responded that it is in the neighborhood's best interest, but it is also in the town's best interest to not continue to do business with Cove. Councilor MacDougall asked if the administration discussed continuing remediation to get the issues resolved with her back in 2021 when Cove was clearly in breach of the contract? She met with the administration numerous times (weekly) to figure out how to resolve this. Everyone thought they would be at the finish line soon. Councilor MacDougall asked if Cove spoke with her? Ms. Kabilian responded that Cove speaks with one of her neighbors frequently. Cove was present at those meetings, and Ed O'Sullivan did take her calls and complaints, but they do what they want. Councilor MacDougall asked her opinion of the newsletters Cove sent out? Ms. Kabilian responded that they were just cut-and-pasted from the prior week's.

Councilor Abbott asked if the boards both are currently turned on. It can be seen if you drive down Century Road? Ms. Kabilian responded that one side was on, which prompted the letter from the solicitor; and then the second side was turned on. The town warned that they do not have permission to turn it on and they did anyway. Present Mathews added that Cove essentially just ignored the town. He thanked Ms. Kabilian for her extensive work and presentation.

OLD BUSINESS

Correspondence to Mayor Hedlund Regarding Electronic Billboards- Council President Arthur Mathews

President Mathews reminded all present that their focus is on the current board at 611 Pleasant Street. The other is scheduled for a public hearing next week. This focuses solely on 611 Pleasant Street.

He read his letter into the record:

*Town of Weymouth
75 Middle Street
Weymouth MA 02189*

Dear Mayor Hedlund,

I am writing to you regarding the 611 Pleasant Street billboard. As you are aware, Solicitor Callanan notified Cove Outdoor, LLC on January 18, 2022 that they were in default of the Billboard Relocation Agreement that was originally signed on July 27, 2018 and the amended agreement from January 8, 2021. The Solicitor detailed outstanding issues that Cove Outdoor, LLC is required to complete in order to be in compliance with the agreement. In his prior communications with Cove Outdoor, LLC, he clearly stated to them that they did not have the permission of the town to turn the billboard on until all of the outstanding issues were completed. Despite the numerous warnings by Solicitor Callanan, Cove Outdoor, LLC decided to turn on one side of the billboard on January 14, 2022 and the second side was turned on January 26, 2022.

This blatant disregard by Cove Outdoor, LLC is unacceptable and needs to be immediately addressed. They were required to complete all of the mitigation work by September 30, 2021. In your PowerPoint presentation before the Town Council on January 19, 2021, it was stated that if the mitigation was not completed by the September 30th deadline the billboard would come down. On September 28, 2021 Cove's attorney Dave Sterett formally requested an extension of time in an email to Solicitor Callanan. On October 6, 2021 the Solicitor responded by email with a list of conditions Cove would have to agree to. The list was developed by the town and the Century Road neighborhood representatives. Subsequently in a separate email on October 26, 2021 the Solicitor asks for a response from Cove regarding the list of conditions. Then on October 29, 2021 Cove's Attorney states to the Solicitor in an email that they are not requesting a formal extension, despite the previous September 28th request. The town officially withdrew its offer to Cove's request for an extension on January 14, 2022.

It has now been four months since the required date of completion and Cove Outdoor, LLC has not completed the required mitigation. Despite being fully aware of this, Cove has now turned on both sides of the billboard.

At the January 31, 2022 Special Town Council Meeting, the Town Council voted to send you this letter and request for you and the Solicitor to enforce the agreement and take any and all necessary actions, which may include legal proceedings, to have Cove Outdoor, LLC, or its successor(s), surrender the permit for the billboard at 611 Pleasant Street and remove the billboard as they have not met the performance obligations and mitigation requirements of the agreement. We have also copied John Romano, Executive Director of the Outdoor Advertising for Mass DOT, to this letter to inform him of our concerns.

The Weymouth Town Council has allocated a significant amount of time and held numerous meetings on this topic for the past several years with our constituents. We continue to support the Century Road neighborhood that has been negatively impacted by this billboard and vehemently oppose the egregious actions that have transpired by Cove Outdoor, LLC. We appreciate your prompt response to this matter. Please contact me should you have any questions.

Sincerely yours,

Arthur Mathews, Weymouth Town Council President

CC: John Romano, Executive Director of the Outdoor Advertising for Mass DOT, 10 Park Plaza, Boston MA 02116-3973

Joseph Callanan, Town Solicitor

Councilor Belmarsh noted understanding that the company that leased the land to Cove applied for an ANR (approval not required). She urged the administration to not grant it. President Mathews responded that it will be addressed.

Solicitor Callanan noted that they will have the opportunity during the 60 days to cure the default. They have to wait the 60 days before going to court to terminate the agreement. They acknowledged the letter was sent and they received it, and they do have to respond substantively.

President Mathews noted the Council will discuss any legal strategy after the 60 days in an executive session.

Councilor DiFazio asked the solicitor if there is any issue with the Town Council sending this letter? Solicitor Callanan responded, no.

Councilor Heffernan asked the solicitor, what if they come back and say they remediated to their definition standard; not the town's? Who is the arbiter of that? President Mathews responded it will likely go to court; it can be discussed in executive session. Solicitor Callanan responded that he is reluctant to answer questions on future events and prefers not to discuss strategy publicly but would in executive session.

President Mathews suggested they wait the 60 days and then take it up in executive session.

Councilor MacDougall noted the company has the tendency to drag things out. What if they fix a few of the twelve items at a time?

Solicitor Callanan responded that they didn't finish the work they were supposed to by September 30th. The town didn't seek to surrender their permits then because of a tactic on delay. In an agreement with specific deadlines, what is the result of a delay of that deadline? Whose fault was the delay? Cove argued that it was the town's. In the spring, they had to file for a special permit, which delayed them three months. The town argued that it wasn't a legitimate delay in contract theory. Regardless, there were other things they could have done during those three months. The solicitor explained to the neighbors around that September 30th deadline that if they sought to surrender the permits on October 1st, it would not be a great legal argument. Where the board was off, Cove had the interest to complete remediation timely, because they're losing money. Cove's delay was an issue the town was willing to tolerate. It was hurting Cove more than it was hurting the neighbors. That changed in December/January when Cove was no longer trying to fulfill their obligations but trying to get out of them, and when the board was turned on January 15th, it was a breach of the contract. Clearly, they were told they couldn't and they did anyway.

Councilor MacDougall noted there is a 60-day deadline, and twelve items listed to be completed. He would like to see contingent language that says all twelve items should be completed within the 60 days. He also asked if the town is looking to hire outside representation to handle this? Solicitor Callanan responded they retained services of Miyares & Harrington, the same attorney/ firm that worked with Weymouth on the compressor station legal fight. If this matter were to go to litigation, the solicitor can represent the town, but the solicitor could not represent the town if it were to go to trial because he would be a witness.

President Mathews noted that the solicitor had indicated he will supplement his prior letter and can include it.

Councilor Heffernan noted that the town can have the best ordinances but it really needs enforcement and he is happy to see the Council and the town enforcing this.

Vice President Molisse motioned to send the letter to Mayor Hedlund and was seconded by Councilor Kiely. Vice President Molisse supported sending this. It's a good letter. Unanimously voted.

ADJOURNMENT

The next regularly scheduled meeting of the Town Council is February 7, 2022. At 8:18 PM; there being no further business, Vice President Molisse motioned to adjourn the meeting and was seconded by Councilor Kiely. Unanimously voted.

Respectfully Submitted by Mary Barker as Recording Secretary

Approved by Arthur Mathews as President of the Town Council
Voted unanimously on 22 February 2022