

**Minutes of Regular Meeting
Select Board
Tuesday, January 7, 2020
Select Board's Meeting Room – Town Hall
Called to Order at 7:00 p.m.**

Present were Board members Laurie Bent, Harvey Boshart, and Christopher Houston, Chair. Also present were Town Manager Leon A. Gaumond and Assistant Town Manager/Human Resources Director Lisa Yanakakis. Recording Secretary is Kara Fleming. Videographer – James Tremble, Weston Media Center

Item 1 – Resident Comments

Ms. Alicia Primer of Church Street raised concern that Item 4 on this meeting's agenda, discussion of 255 Merriam Street/11 Hallett Hill Road, was not properly noticed per the Open Meeting Law. She stated that the item was added after the required posting period of 48-hours. Mr. Houston said Town Counsel has stated that items can be added to a legally-posted agenda, provided that the item is something that was not anticipated before the 48-hour period. Ms. Primer said that this topic was raised in an email she received from Mr. Houston in December and the January 7th meeting date was mentioned. Mr. Houston clarified that his email asked for a meeting with the Planning Board to discuss the subject; however, no member of the Planning Board could meet to discuss.

Item 2 – Pine Brook Country Club Grant of Location Request across Newton Street

Pine Brook Country Club is requesting approval to install a sewer force main under Newton Street for the purpose of carrying wastewater from the club house on the east side of Newton Street to the proposed wastewater treatment plan on the west side of Newton Street. Town Engineer Steve Fogg has reviewed the engineering plans with MetroWest Engineering and recommends the Grant of Location subject to conditions outlined in the attached Public Works memo dated December 5, 2019.

MOTION: Ms. Bent moved to approve the Grant of Location for Pine Brook Country Club for the installation of a sewer force main under Newton Street and subject to conditions set by the Department of Public Works. 2nd by Mr. Boshart. **Approved unanimously**

Item 3 – Meet with Craig Hattabaugh to Discuss Citizens' Petitions

Mr. Hattabaugh recently corresponded with the Town Manager regarding his interest in bringing forward three Citizens' Petitions. Mr. Houston thanked him for coming to the Board to discuss his petitions before filing, as it would allow for a conversation. The three petitions and discussions follow:

Allow Absentee Voting at Town Meeting

Mr. Hattabaugh believes Town Meeting to be inaccessible for many due to family obligations or work travel and if a resident cannot attend, they lose their voice in decisions being made. He wishes to see absentee voting or even remote voting implemented at Town Meeting, though neither are permissible under state law. Mr. Houston explained that he and Mr. Boshart, before their time on the Select Board, served on the Town Meeting Advisory Committee and had studied Town Meeting attendance and options to support greater attendance. A final committee report was filed and is available on the Town's website. Mr. Hattabaugh said he had reviewed the report but felt a push from the Town would help move the state toward change. Mr. Boshart said even a push from the Town to support absentee voting would not

address some fundamental issues that cannot be changed, such as Town Meeting warrant articles will sometimes change prior to or on the floor of Town Meeting and those cannot be decided by an absentee vote. He added that Town Meeting is not an election but rather the legislative body of Weston's Town Government and the process is different than an election. Ms. Bent added that the discussion at Town Meeting is the focus of the body and what helps shape the decisions made. She said many have gone to Town Meeting with their minds made up but changed their opinion and vote after listening to the debate.

Mr. Boshart continued to explain that the committee did explore Representative Town Meeting, where an elected official represents a specific population of the town; however, he does not feel that this option will garner support from residents. Mr. Hattabaugh suggested moving toward remote electronic voting where residents can participate outside of Town Meeting. Mr. Boshart said he and the Weston Alternative Voting Exploratory Committee has been looking into the technology that exists and the committee is considering approaching the state with a ballot question from the Town advising the change of this law; however, this is a long process that also involves support from other communities and the Select Board is stretched thin with many projects.

Limit Town Election Ballot Questions Regarding Proposition 2 ½

Mr. Hattabaugh asked that whenever there are debt exclusion questions on the ballot, each exclusion be addressed in separate questions rather than bundling all the exclusions into one question. He explained that he felt the single question takes the power of the voter away because the vote is all or nothing. Mr. Houston explained that Weston has traditionally kept debt exclusions together within one question to preserve and respect the legislative decision made through the deliberative Town Meeting process rather than present a situation where an advocacy group can upend that higher process.

Reduce the Community Preservation Act Tax Surcharge

Mr. Hattabaugh would like to see the tax surcharge reduced from 3 percent to 1, given that the Old Library, Case Estates, and the Josiah Smith Tavern have been settled. These projects were the impetus for the adoption of the Act and the surcharge level. Mr. Houston suggested Mr. Hattabaugh speak with the chair of the Community Preservation Committee to gain his perspective. That committee is currently conducting an analysis addressing this exact question and the probability of success in reducing the surcharge. Members need time in understanding the existing debt service, as well as forgoing state matching funds.

Item 4 – Update Discussion Regarding 255 Merriam Street/11 Hallett Hill Road

Mr. Houston prepared a presentation to update the Board (attached). He prefaced his discussion with informing the Board that he has been meeting with members of the Silver Hill Group, Town Counsel, and the developer of the subject property to discuss the Transit Oriented Senior Development and its failure to garner 2/3rds majority support at Special Town Meeting. He has been attempting to meet with the Planning Board but no member was available to meet over the last three weeks; however, he felt compelled to bring an update to the Board because of time sensitivity. Though Mr. Houston was against the article in December, he said the majority support for the article made him want to better understand the objections; and further he had learned of details of which he had not been aware. These discussions steered him towards exploring a compromise with the developer, which has been reached. The developer is agreeable to eight units with one of them being affordable. The market units would be slightly larger than originally proposed but the land disturbances and impacts will still be minimized. The Board discussed this further weighing the benefit versus the perspective of spot zoning. Mr. Boshart and Ms. Bent thanked Mr. Houston and said they support him moving forward with discussions.

Item 5 – Discuss the Public Land Protection Act

Phil Saunders

Mr. Saunders presented information regarding the proposed legislation (S459 and H732) to the Select Board (attached), which outlined the needs for stronger protections for conservation land and challenged objections to the bill. Letters of support have been submitted to the State House from the Sustainability Committee, the Conservation Commission, and the Planning Board. The Select Board discussed the legislation, with Mr. Houston raising concerns about some of the language in the bill that he interprets as limiting control of the town and the state in the future, as well as concerns with the list of supporters only including Sustainability Committees and Conservation Commissions. He said he would like to hear the position from other groups and noted that the Massachusetts Municipal Association (MMA) is not in favor of the bill. Ms. Bent did not interpret the language as limiting control and agreed that the current language of the bill is too cumbersome. She added that regulations that will follow upon passage of the bill and will serve as the roadmap for enforcement, which the current law does not have. She continued to state that it is important for the MMA to know that Weston's Select Board has a different opinion. Mr. Boshart agreed that the language needs to be simplified but he supports the bill because of the protections for state-owned land. Mr. Houston said he trusts Ms. Bent's knowledge and perspective on this issue and will side with her.

MOTION: Ms. Bent moved to declare the Weston Select Board supports the intention and substance of the Public Lands Protection Act and its passage. 2nd by Mr. Boshart. **Approved unanimously**

Item 6 – Designate a Select Board Representative to the Tree Guidelines Group

There has been some growing concern regarding tree management in the Town's right of way, as well as tree management on private property with regard to stormwater management. Mr. Houston, along with the Town Planner, the Public Works Director, Tony Flynn of the Planning Board, and Lori Hess of the Tree Advisory Group, discussed how to approach tree management in Weston's right-of-way and balancing it with infrastructure projects. It was decided to create a set of guidelines to help guide current and future projects. Developing guidelines for tree management on private property would be a secondary focus of the group. The Planning Board, Tree Advisory Group and Select Board would each have a representative working with the Town Planner, Tree Warden and Town Manager for the public right-of-way. Mr. Boshart said he would represent the Board for the public right-of-way guidelines. Ms. Bent said she would represent the Board during the private property discussions.

MOTION: Ms. Bent moved to designate Mr. Boshart as the Select Board's representative to the tree management working group for the public right-of-way and Ms. Bent as the Board's representative to the tree management working group for private property. 2nd by Mr. Boshart. **Approved unanimously**

Item 7 – Designate Voting Delegate for the MMA & MIIA Annual Meeting

MOTION: Ms. Bent moved to designate Leon A. Gaumont, Jr. as the voting representative to the MIIA and MMA Annual Meetings on behalf of Weston. 2nd by Mr. Boshart. **Approved unanimously**

Item 8 – Town Manager Evaluation

Mr. Houston asked to pass over this item until the next Select Board meeting.

Consent Agenda

MOTION: Mr. Boshart moved to approve the consent agenda, as follows:

Approve minutes from the following Select Board meetings: December 10, 2019 regular session and December 18, 2019 regular session.

Approve a request from the Council on Aging to accept a donation of \$50 from Patricia B. Fiskin in memory of Joyce Butler, \$50 from the Jeffrey S. Feingold Charitable Fund, \$50 from Linda Stantial, \$4,500 from Sally von Rumohr, \$100 from Lucy Saunders, \$500 from Jean & Geary MacQuiddy, \$50 from Barbara Karchmer, and \$20 from Geraldine A. Barris, all to be applied the Miscellaneous Gift Account.

Approve a request from the Weston Public Library to accept \$100 from Mimi & Tom Brome, \$100 from Dianna Seufert, \$50 from Nancy Morganstern, \$5,000 from Ellen M. Libert, \$75 from Emily & Dave Hutcheson, \$50 from Beatrice Forman, \$100 from Mary Gambrell Aydelott Slavet, \$25 from Lynn A. Uhrich Smith, \$50 from Joseph & Jane Yarze, \$50 from Herbert H. Randle, \$100 from Robert Hillman & Sheila McElwee, \$100 from Paul Penfield Jr., \$250 from the Ackman Haimovici Rosen Family, \$50 from Elizabeth Reny, \$100 from Felicia & Charles Gervais, \$25 from Allison & Rob Trumbull, \$100 from Jean MacQuiddy, \$50 from the Weinstein Family, \$100 from Margaret & Richard Golden, \$250 from Sally Von Rumohr, \$60 from Amy & George Riedel, \$50 from Fadi Badlissi & Mary Antaki, and \$500 from Elizabeth Brew Boyd & John McCoy Boyd, all to be applied to the Art & Innovation Center Fund.

Approve a request from the Weston Public Library to accept a distribution of \$10,500 from the Nathalie and Theodore Jones Charitable Trust, to be applied to the Library General Purposes Fund.

Accept a donation of \$135,000 from the estate of Mary Alice (Carter) Avato and \$250 from the Shane Family Foundation Fund, both to be applied to the Dana Carter Memorial Scholarship Fund.

2nd by Ms. Bent. **Approved unanimously**

Meeting adjourned: 9:03 p.m.

Laurie Bent
Clerk

Note: A copy of all documents, explanatory material, and exhibits presented to and used by the Select Board as part of this meeting are attached to the approved minutes.

255 Merriam/11 Hallet Hill: A Possible Path Forward

Select Board Presentation – January 7, 2020

40B vs. TOSD Proposal

	40B	TOSD
Total Units	10	8
Affordable Units	2	0
Impacts	Substantial Impacts	Mitigated
PB Review	None	Site Plan Approval

PB opposed

SB took no position (after much discussion)

Majority of Town Meeting supported ($\approx 60\%$)

But passage required 2/3 support, so did not pass

Roots of Objection

- Some misperceptions of terms, consequences, and AARD bylaw (if only because of limited time)
- Some misperceptions and/or misgivings about “spot zoning”, legality, citizens petition, etc.
- *Most of all: Absence of any affordable units (absence itself and/or excess benefit to developer)*

But, could we find a compromise, to address these issues for the mutual benefit of all (including the Town)???

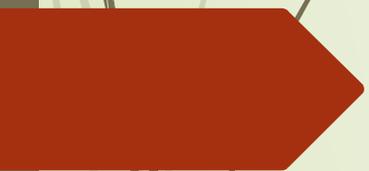
A Potential Path Forward...

	40B	TOSD	Potential Compromise?
Total Units	10	8	8
Affordable Units	2	0	1
Impacts	Substantial Impacts	Mitigated	Mitigated (≈ same as TOSD)
PB Review	None	Site Plan Approval	?

Next Steps

- New bylaw is drafted to reflect compromise, in consultation with neighbors, developer, and (if it wants to participate) PB
- Bylaw is proposed by SB (not by new CP) and referred to PB for usual hearing
- Bylaw is then brought to new STM for vote, presented by SB (with PB reporting its recommendation as well)

If vote passes, we have indeed achieved a compromise for the mutual benefit of all (including the Town)



Protecting Open Space

Article 97 and the Public Lands Preservation Act



Public Lands Preservation Act: *What would it do?*

- Replacement land for any Article 97 land disposition – *no net loss*
 - Codifies existing policy
- Alternatives analysis to show no feasible alternative to disposition
 - Codifies existing policy
- Notification to EOEEA of proposed disposition prior to filing legislation
 - Procedural change requiring notice to interested parties, promoting transparency
- Instructions (“road map”) for carrying out disposition
 - Procedural clarification



Why PLPA is needed

- ▶ Prevent existing EOEEA policy from being repealed or ignored by future administration unconcerned about open space
- ▶ Ensure that requirements under existing policy are met in all cases
 - ▶ Sometimes EOEEA does not get replacement land
 - ▶ Alternatives analyses frequently not done or made public
- ▶ Provide early notification to interested parties
 - ▶ Can work out issues before bills get to legislature and administration
 - ▶ Prevent bills flying under radar (e.g., Leominster State Forest)
- ▶ Article 97 disposition process not clear
 - ▶ MACC survey of CONCOMs indicated lack of awareness
 - ▶ Municipalities waste time and money correcting problems in bills



Objections

- ▶ MMA
 - ▶ Objects to any legislation giving instructions to municipalities
 - ▶ Claims current process is “very robust.”
 - ▶ Reality: Process is fragile, inadequately executed, and poorly understood
 - ▶ Claims there are “relatively few” Article 97 dispositions.
 - ▶ Reality: 45, 54, and 40 in last 3 legislatures
- ▶ Concern about “tying hands”
 - ▶ Board will retain constitutional right to file legislation, even overruling PLPA
 - ▶ Preserving open space an important part of dealing with climate change



Why the Weston BOS endorsement matters

- ▶ Legislators pay attention to their Select Boards
 - ▶ Sen. Barrett and Rep. Peisch support the PLPA
 - ▶ We need them to work in the legislature to enact the PLPA
- ▶ Help with MMA
 - ▶ Endorsement by a constituent may make MMA less adamant in opposition