

**Minutes of Regular Meeting
Select Board
Tuesday, April 21, 2020
Remote Online Meeting (Zoom ID 674 881 852)
Called to Order at 7:00 p.m.**

Remotely participating were Board members Laurie Bent, Harvey Boshart, and Christopher Houston, Chair. Also present were Town Manager Leon A. Gaumond, Jr., Assistant Town Manager/Human Resources Director Lisa Yanakakis, and Recording Secretary Kara Fleming.

Mr. Houston called the remote meeting to order and read the following:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order concerning imposition on strict limitations on the number of people that may gather in one place, meetings in the Town of Weston will be conducted via remote participation to the greatest extent possible. We will strive to provide access to such meetings via a link to call in, or other similar option. In the event we are unable to accommodate the same, despite best efforts, we will post recorded sessions of the meeting as soon as possible following the same. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings.

Resident Comments

There were none.

COVID-19 Status in Weston

Emergency Management Director David Soar and Public Health Director Wendy Diotalevi

Chief Soar reported that Massachusetts has begun the anticipated surge of COVID-19 cases within the state and the number of deaths has doubled just in the past week. He continued to report that Weston has been a hotspot of positive cases early on due to travel and residents who had attended the Biogen conference in Cambridge but fortunately there has been no community spread as of yet. Chief Soar explained that the Town has initiated its emergency management plan and is operating with minimal services to keep the government running and is able to follow guidance from the state level despite some of it changing quickly. The local emergency responders now have enough personal protection equipment (PPE) and sanitation supplies and are working with the long-term care facilities to ensure proper precautions and PPE are in place. All of the schools have been deep cleaned in case of reopening or emergency sheltering and the Town Hall is closed off with limited access in order to preserve the sanitation supplies. Lastly, Chief Soar reported that the mental health is straining for those on the front line in response so services have been set up to help our teams; because Weston is small, there is staff that has been working many long hours and days. Ms. Diotalevi added that the school nurses joined the Town's public health department as part of the epidemiology team and they have been tremendously helpful, especially with the growing number of cases of COVID-19 in town. She explained that the state only reports laboratory-confirmed positive cases but due to the lack of testing, there are many probable cases that are doctor-diagnosed, which the state does not report, and which the epidemiology team follows for contact tracing and care.

Ms. Bent expressed appreciation for the hard work and hours that staff is putting in asked if there is a process in place for emergency decisions to come to the Select Board to be ratified or reviewed. Chief Soar explained that due to the public health and state of emergency, the protocols outlined by the National

Incident Management System are in place where he, as the emergency management director, is the Incident Commander and Ms. Diotalevi, as the public health director, are in the position to make decisions to prioritize and ensure public safety. He added that in times of crisis, quick decisions need to be made and time may not allow for the traditional process. The decisions are made by a team and a Select Board member can also attend those meetings. Ms. Bent asked that once a decision is made, that the executive body be brought in on it, particularly if there is a big or controversial decision made such as the recent mandatory leash order on conservation land. She cited the decision to close the playgrounds was brought to the Board as a recent example. Mr. Houston asked if Ms. Bent was seeking a formal process or if a meeting of the Board could be called. Ms. Bent said a Board meeting was sufficient. Mr. Boshart said he did not want to be in a position of second-guessing emergency decisions but understood what Ms. Bent was seeking.

Meet with Conservation Commission to Discuss Emergency Orders

Joe Berman, Chair

Mr. Berman raised two issues with decisions made by the Emergency Management Team (memo attached). The first is regarding the process that led to the mandatory leash order and the closure of Cat Rock to out of town visitors. The second is a request to designate the conservation administrator, Michele Grzenda, as an essential employee during the public health emergency. The first issue began a long discussion on who holds the authority of the land and the process of communication, as Mr. Berman had expressed frustration with being caught off guard by the emergency orders. Chief Soar described the situation that led to the emergency orders of many people congregating in close proximity at Cat Rock and the Ash Street Reservoir, as well as many off-leash dogs that were not under voice control which caused the owners to come into close proximity of others when retrieving their dog. The amount of people coming into close proximity to others as the state is in a surge of climbing cases is what led to the emergency decision to mandate leashing on all of the trails and to de-densify the volume of people at Cat Rock since it is very popular with out of town visitors. The issue was first raised at a Board of Health meeting and Animal Control Officer Rachel Hoffman was brought in to assess the situation, which was subsequently described as dangerous to public health. The Emergency Management Team invited Ms. Grzenda to its meeting to discuss the public health concern and the desire to minimize the dangerous situation. The initial desire of the team was to close all of the trails but the discussion led to the mandatory leash order and the closing of Cat Rock to out of town visitors. Police Chief Goulding added that he had an additional meeting after this discussion with Officer Hoffman, Ms. Grzenda, and a representative from Weston Forest and Trail Association to discuss the mandatory leash order and the closing of Cat Rock to out of town visitors. Mr. Boshart added that many of the surrounding communities also mandated leash orders, which increased visitors to our trails.

Regarding designating the Conservation Administrator as an essential employee, Ms. Yanakakis explained that the designation is in the context of the emergency and not intended as descriptor of job duties. She added that she is one of four employees in the building that is currently only open for three days a week. During her time in the building, Ms. Yanakakis will assist Town Hall employees with the retrieval of necessary files and leaves them in a designated pick-up area outside of the building. Ms. Bent asked if Ms. Grzenda could access her office on a day when other staff was not on site or even after hours. Both Ms. Yanakakis and Chief Soar said Ms. Grzenda is allowed to be in the Town Hall so long as it is on a designated day and she logs where she is in the building and for how long, as this is the procedure. Due to the lack of knowledge in how the coronavirus spreads and the difficulty in obtaining sanitizing supplies, access needs to be managed and minimized. Ms. Yanakakis will work with Ms. Grzenda to help her conduct her job with minimal disruption. Mr. Berman expressed disappointment with the reasoning and disagreed with the approach. The issue was discussed further and Mr. Houston asked to hold off on the discussion for another few weeks for the surge to level off.

Review and Potentially Approve:

- a. Annual Town Meeting Warrant**
- b. Recommended Fiscal Year 2021 Operating Budget**
- c. Report of the Select Board for the Budget Book**
- d. Debt Exclusion Question for Annual Town Election**

Mr. Houston asked to hold off on this agenda item until a future meeting since the state is still working through many of these issues and is preparing guidance for municipalities. He asked the Board to bear in mind that the schools are officially closed for the remainder of the school year, the growing uncertainty that Annual Town Meeting will occur in early June, and that many residents may be leaving town for the summer.

Ms. Lisa Reitano, chair of the Finance Committee, asked if the Annual Town Meeting warrant and the recommended operating budget will be changed from what has already been discussed. She continued to say that the Finance Committee had prepared recommendations to modify the warrant and to reduce the operating budget and wished to work with the Board to discuss these recommendations in light of the pending economic uncertainty. Mr. Houston said he was unaware that the Finance Committee was seeking a collaborative process and would welcome a discussion. He suggested he and Ms. Reitano discuss the process and path forward prior to the next Select Board meeting.

Discussion with Town Clerk:

- a. Extend Dog Licensing Period from April 30th to July 31st**
- b. Reduce Polling Hours to 8:00 a.m. to 4:00 p.m.**
- c. Call Annual Town Election**
- d. Call Annual Town Meeting**

Deborah Davenport, Town Clerk

Dog Licensing

Ms. Davenport asked for the dog licensing deadline to be extended, as well as the late fee.

MOTION: Ms. Bent moved to extend the dog licensing period from April 30th to July 31st. 2nd by Mr. Boshart.

Roll call vote: Ms. Bent, Mr. Boshart and Mr. Houston voted in the affirmative. **Approved unanimously**

Polling Hours

Ms. Davenport asked to reduce polling hours but keeping them a little longer to spread out participants. Mr. Houston said the state emergency orders will allow for early voting through mail. The change in hours can be added to the warrant and voted upon when the election is called.

Call Annual Town Election and Annual Town Meeting

Tabled to future meeting discussion

Extend the Deadline for the Payment of 4th Quarter Property Tax from May 1st to June 1st and Waive Late Fees

Zoe Pierce, Treasurer/Collector

Chapter 53 of the Acts of 2020 provides for the Board to provide an extension of deadlines and waive interest, fees and penalties on property tax. Ms. Pierce said the Town is in a good financial position to

adopt this provision and she has been waiving late fee interest on water bills because the dollar amount is minimal but the property and personal tax must be approved by the Board.

MOTION: Ms. Bent moved that the Board vote, in accordance with Section 10 of Chapter 53 of the Acts of 2020 entitled, “An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19”, to extend the date real estate and personal property taxes are due to the Town and the deadline for application for abatements, until June 1, 2020, all as set forth in said Section 10. 2nd by Mr. Boshart.

Roll call vote: Mr. Boshart, Ms. Bent and Mr. Houston voted in the affirmative. **Approved unanimously**

MOTION: Mr. Boshart moved that the Board vote, in accordance with Section 11 of Chapter 53 of the Acts of 2020 entitled, “An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19,” to waive the payment of interest and other penalties in the event of the late payment of any excise, tax, betterment assessment or apportionment thereof, water rate and annual sewer use or any other charge added to a tax for any payments with a due date on or after March 10, 2020, all as provided in said Section 11, provided, however, that such payment is made no later than June 30, 2020, all as set forth in said Section 11. 2nd by Ms. Bent

Roll call vote: Ms. Bent, Mr. Boshart and Mr. Houston voted in the affirmative. **Approved unanimously**

Receive Open Meeting Law Complaint

Lauren Goldberg, Town Counsel

The complaint claims the Select Board violated the Open Meeting Law when Mr. Boshart answered a question on a thread in a closed Facebook community page and Mr. Houston posted a comment on the same thread. Per the complaint, this action constituted a quorum of the Board in a private meeting. Ms. Goldberg explained that social media is subject to the Open Meeting Law and public officials need to be careful in not deliberating or tagging one another; however, after reviewing the thread, she said there was no deliberation between Mr. Boshart and Mr. Houston and further, Mr. Houston’s single comment followed proper procedure by diverting the conversation to the upcoming public meeting. She continued to say that despite the comment being made in a closed group, the Facebook community consists of a few thousand members who were privy to the conversation unlike an email conversation between only a few. Mr. Boshart added that the Select Board’s ability to address questions from the public is important, within any forum, and expressed frustration with the complaint since he and Mr. Houston are residents and volunteers trying to provide information and engage their community. Ms. Goldberg said the three issues to bear in mind when on social media is due process, first amendment rights, and the Open Meeting Law and added that the website for the Attorney General has additional guidance.

MOTION: Mr. Houston moved to authorize Town Counsel to draft a letter with her analysis as discussed and respond to the Attorney General. 2nd by Mr. Boshart.

Roll call vote: Ms. Bent, Mr. Boshart and Mr. Houston. **Approved unanimously**

MOTION: Ms. Bent moved to authorize the use of electronic signatures or other means the Town Manager finds appropriate. 2nd by Mr. Houston.

Roll call vote: Ms. Bent, Mr. Boshart and Mr. Houston. **Approved unanimously**

Approve License Agreement for 0 Hobbs Brook Road

Mr. Gaumont said he and former Selectman Michael Harrity worked with Town Counsel to develop a Request for Proposal to find an entity to assume a partnership with the Town for the landlocked property

at 0 Hobbs Brook Road. One bidder responded, Granite Brook Materials, which is the abutting business. Rules and expectation to reduce noise and other neighborhood concerns were added to the agreement.

MOTION: Mr. Boshart moved that the Select Board approve and execute the License Agreement with Granite Brook, LLC for the property located at 0 Hobbs Brook Road, said License Agreement memorializing the terms and conditions under which Granite Brook, LLC shall use and occupy the property. 2nd by Ms. Bent.

Roll call vote: Ms. Bent, Mr. Boshart and Mr. Houston voted in the affirmative. **Approved unanimously**

Approve Order of Taking for Town Center Project

Mr. Gaumond has been working with the Town Center Project Working Group and Town Counsel to acquire the easements necessary for the completion of the town center project. Mr. Boshart added that these are not land takings but only temporary utility easements to allow for utility and drainage connections. Compensation based on appraisal is being offered to each property owner.

MOTION: Mr. Boshart moved that the Select Board approve the Order of Taking to acquire the easements for the Town Center Improvement Project, said easements shown on plans entitled “Easement Plan of Land Town Center Improvement Project Weston, Massachusetts,” dated March 1, 2019, revised through April 16, 2020, prepared by Nitsch Engineering, and that the Board members execute the Order of Taking, which is located at Town Hall. Further, Town Counsel is authorized to record the Order of Taking and plans with the Registry of Deeds, and the Town Manager is authorized to pay compensation to those property owners who have not executed a Waiver of Appraisal and Damages. 2nd by Ms. Bent.

Roll call vote: Mr. Boshart, Ms. Bent and Mr. Houston voted in the affirmative. **Approved unanimously**

Consent Agenda

MOTION: Mr. Boshart moved the consent agenda as follows:

Approve the following Select Board Executive Session minutes (not for public release): March 26, 2019, April 9, 2019, April 26, 2019, May 14, 2019, May 28 2019, October 8, 2019, and November 12, 2019

2nd by Mr. Houston

Roll call vote: Mr. Boshart, Ms. Bent (with respect to the minutes on which she served Board) and Mr. Houston voted in the affirmative. **Approved unanimously**

Executive Sessions

a. Exemption 7 to review approved executive session minutes of December 18, 2018, February 12, 2019, February 26, 2019, January 8, 2019 and March 19, 2019 for possible public release.

b. Exemption 3- discussion with respect to collective bargaining

Mr. Houston asked to hold off on this item until the next meeting next week.

MOTION: Ms. Bent moved to adjourn. 2nd by Mr. Boshart

Roll call vote: Ms. Bent, Mr. Boshart and Mr. Houston voted in the affirmative. **Approved unanimously**

Meeting adjourned at 10:13 p.m.

Laurie A. 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

WESTON CONSERVATION COMMISSION

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MEMORANDUM

TO: EMERGENCY MANAGEMENT TEAM, TOWN MANAGER, SELECT BOARD
FROM: JOSEPH BERMAN, WESTON CONSERVATION COMMISSION CHAIR
CC: WESTON CONSERVATION COMMISSION
MICHELE GRZENDA, CONSERVATION ADMINISTRATOR
SUBJECT: EMERGENCY ORDERS AFFECTING CONSERVATION LAND
DATE: APRIL 15, 2020

At its April 14, 2020 public meeting, the Weston Conservation Commission (WCC) discussed the recent Emergency Management Team's (EMT) Orders regarding certain conservation land regulations (i.e. leashing dogs on all trails and further restrictions at Cat Rock). Although many members of the WCC disapproved of the manner in which the regulations were announced, the WCC unanimously voted to adopt these recent Orders during the town's State of Emergency and further grant the EMT authority to issue future Emergency Orders contingent upon 24 hours' notice is given to the Conservation Administrator and the WCC Chair.

Please be aware that Chapter 40 Section 8C gives the WCC exclusive jurisdiction to regulate conservation land. The state of emergency does not modify or remove that authority. The WCC is uniquely positioned based on its experience and expertise to regulate conservation land. Therefore, the WCC has the right to discuss, modify, revoke and/or ratify any future Orders at a WCC public meeting.

I respectfully request time at your next Select Board's meeting on April 21, 2020 to discuss this matter. Additionally, I request that the Select Board designate the Conservation Administrator to be considered Essential and be allowed to be part of the decision-making process for actions involving conservation land. The WCC recognizes that under Governor Baker's emergency order, businesses and organizations that do not provide "COVID-19 Essential Services" are required to close their physical workplaces and facilities to workers, customers and the public. However, on March 31, the State revised its list of essential services to clarify that certain conservation work can proceed, whether performed on state, municipal, non-profit or private conservation lands.

Specifically, the list now includes, "Workers who support the operation, maintenance and public safety of parks, forests, reservations, conservation restrictions, wildlife management areas, water supply protection lands, and other critical natural resources and open space for passive recreation."

The Conservation Administrator is fielding numerous calls regarding trail concerns, tree damage from the recent storm, and other active and ongoing land management projects. We understand that Weston's Emergency Team believes that managing conservation land is not an essential function for the Town of Weston to focus our attention on during the height of the crisis, unless of course something critical or a true emergency arises. We respectfully disagree with this assertion. To the contrary, management of the Town's Open Space is more crucial now than ever. The Conservation Commission is responsible for the stewardship and management of over 1,800 acres of Weston's Open Space. Most other municipalities around us consider the Conservation Office duties as an essential function. We recognize we are in unprecedented times but it is during times like this when we would hope the town would acknowledge the important role we play in providing outreach to our trail users, ability to respond quickly to conservation land matters, and be a team player when it comes to making regulation changes effecting Conservation land.