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MINUTES  
TOWN OF BELMONT  
BOARD OF SELECTMEN  
SELECTMEN'S MEETING ROOM  
Monday, March 27, 2017  
7:00 PM

APPROVED  
BOARD OF SELECTMEN  
DATE: 9-12-2017

**CALL TO ORDER**

A regular meeting of the Board was called to order in open session at 7:06 p.m. by Chair Mark Paolillo in the Selectmen's Meeting Room. Selectmen Sami Baghdady and Jim Williams were present. Interim Town Administrator Phyllis Marshall was also present.

Chair Paolillo reviewed the agenda; he then turned to the first item.

**COMMUNITY ANNOUNCEMENTS**

- **Cushing Village:** On Thursday evening, April 6, Toll Brothers will present an update on the project, the site activity, and next steps. Place and time will be determined.
- **Parking Meters:** Went into in effect in Belmont Center today. The meters are on Leonard Street and are easy to use. The first 30 minutes are free and then there is a \$1.00 fee per hour for additional time. There will be a brief moratorium on ticket violations.
- **Town Election:** Will be held on Tuesday, April 4, from 7:00 a.m. to 8:00 p.m.
- **Rabies Clinic:** The Board of Health is holding its annual Rabies Clinic on April 8, from 12:30-1:30 pm, at the Chenery Middle School.
- **Belmont High School Building Committee:** A community forum is scheduled on Thursday, April 6 at 7:00 p.m. at the Beech Street Center.

**QUESTIONS FROM TOWN RESIDENTS**

[There were none.]

**ACTION BY CONSENT**

**Presentation of Proclamation to Commemorate the Armenian Genocide**

Chair Paolillo read the Proclamation. It was previously approved and signed by the Board.

Mr. Jirair Hovsepian, Town Meeting Member Pct. 4 and member of the Human Rights Commission, appeared before the Board to read a statement concerning the Armenian Genocide 1915-1923. He provided historical background on the Genocide as well as historical quotes.

Following a minute of silence to honor the victims, the Board took a very brief recess.

**Resume as the Board of Survey – 178 Marsh Street [continued from March 6, 2017]**

APPROVED

BOARD

*The Board moved:* To reconvene the meeting of the Board of Survey at 7:31 p.m.  
The motion passed unanimously (3-0).

Mr. Glenn Clancy, Director of Community of Development; Mr. George Hall, Town Counsel; Mr. Don Chiofaro, Owner; Mr. Al Gala, Civil Engineer; Mr. William York, Attorney for Mr. Chiofaro; and Mr. Andy Rojas, Landscape Architect, appeared before the Board to discuss 178 Marsh Street.

Chair Paolillo noted that the Board will conduct a fact-based discussion. The Board will consider the following three waivers:

1. sidewalk length
2. slope of road
3. length of road/cul-de-sac

Mr. Clancy briefly explained the three waivers, noting that the first waiver is asking that a section of roadway would not have sidewalk because of the resource area. The second waiver addresses the roadway slope proposed to be in one percent instead of the maximum one-half percent. In previous requests, the sidewalk length waiver and the roadway slope waiver have been granted. The waiver requested for the cul-de-sac is 810 feet or 210 feet greater than the regulations for the Town of Belmont.

Chair Paolillo read a statement concerning the Mass DEP/Wetlands determination. He then read a letter from Mr. Hall, Town Counsel, which outlines the Board of Survey's statutory authority of the 1989 rules and regulations. The language of the special act is written to strongly suggest that the rules and regulation for a planning board would be regarding the form of the plans not design of the road. Mr. Hall's letter then touched on other issues upon which the Board could potentially deny a waiver, based on site-specific criteria. Those that are encouraging the Board of Survey to take a position that would be hard to defend within the statute provision. Mr. Hall added that a cul-de-sac is basically a dead-end street.

Selectman Williams asked about the diameter of the cul-de-sac, which is 120 feet, while the radius is 42 feet. These dimensions are appropriate for emergency vehicles.

Mr. Chiofaro, of 178 Marsh Street, presented a by-right alternative design. He thanked his supporters for signing his petition with over 300 signatures. The road requires three waivers, which he believes are in the public best interest. A presentation of a schematic visual representation of the changes suggested by the Board of Survey will be shown.

Mr. Gala then spoke to the revisions to the original plan, installing underground catch basin chambers to direct storm water runoff flooding the road. There will be a cul-de-sac at the end of Woodbine Road, with emergency access. 15 foot easement at the end and crushed stone will be used for the access road. The road can be built without impacting the wetlands. The original proposed roadway allowed for five homes is further away from neighbors, is more economically feasible, and allows for more efficient water access. Mr. Gala noted that it is the one possible

roadway for three homes of a length that is 600 ft. but drainage to control flooding will not be included, but a waiver is needed for sidewalk installation and slope of the roadway. The roadway will be closer to the neighbors and the water line would not be included due to additional expense for fewer buildable lots.

Mr. Rojas, Landscape Architect, then presented a landscape plan for the proposed road. His presentation highlighted existing trees and new vegetation plantings the neighbors would see to mitigate the construction. He showed a "planting plan" which will obscure the new road and the wall which will be fieldstone. The plantings will blend in with the existing natural environment. Large evergreen shrubs would be planted on the abutter's property and continue along the roadway. All plant materials are native, non-invasive and compatible with the existing natural environment.

Mr. Gala described the proposed properties' proximity to the Audubon Habitat. He noted that several existing properties are actually closer to the Audubon Habitat. He then spoke to the benefits of this proposed road: Marsh Street storm water improvements, a looped water system, storm water ponding eliminated, reduction of water run-off, and better emergency access. Mr. Clancy explained the Marsh Street water issue. He agreed that the proposed road would improve the water run-off issue in this area.

Mr. Chiofaro stated his belief that this project is in the best interest of the town. He provided some background information on the project. He said the five houses will be placed on seven acres. This will give other people the opportunity to live in the area and will increase the tax base. He then spoke to his concept of open space. Prohibiting development is not in the best interest of the town.

Mr. Bill York, Chiofaro Family Attorney, spoke to the close to seven acre property is sufficient to allow "natural mandates" for the longer road due to wetlands. The purpose of the waiver is to allow land to be developed in a safe manner. He suggests that it would be unconstitutional not to allow the waiver and not to limit development and to assure public safety standards, in this case, have all been met, e.g., emergency, wetlands, water run-off, etc. The peer review has signed off on the plan.

This cul-de-sac waiver allows the owner to develop his land and is well within the precedents of Belmont. There is no legal basis to deny the waiver.

#### ***Audience Comments:***

Ms. Anne Paulsen, former Selectman 1986-1992, spoke to the new set of rules that impact development. She spoke to the rules and regulations that were established in 1989 concerning the development of new, public roads. The standards/regulations developed in 1989 were established to make sure the roads were safe. Once roads are developed as public way, the Town is responsible for maintaining them to the standard. Waivers were requested from the beginning and sometimes denied to assure that the roadway would be safe. Since 1989 only waivers for short increases were the only waivers approved.

Selectman Williams spoke about Greensbrook Extension was extended by 643 feet which was granted as a waiver by the Board of Survey.

Mr. Jack McElhinney, Attorney for Habitat, wanted to review the information presented tonight. Woodbine Road emergency access proposal has not been reported to have received an easement. The legal standard centers on enforcing the Town's existing regulations. These waivers are not in the public interest under the subdivision control laws. He read a statement pertaining to the Board's authority.

Mr. Roger Wrubel, Habitat Director and TMM Pct. 5, made a few clarifications. He commented on the length of Oakmont Road, which allowed for the Woodfall Road property sale and development. He spoke to the importance of the preservation of open space in Belmont as well as development of new homes and other residential structures. Three houses would be allowed in the by-right proposal. The waivers will allow for two additional large houses.

Ms. Lisa Moulis, 85 Woodbine Road, asked about the proposed emergency access road which would go through the private owned property of Woodbine Road. Mr. York noted that it is allowed for Emergency vehicles to use the access road. Mr. Clancy summarized Chief Frizzell comments that it would be a benefit as long as it is maintained. She asked about right of way from others on an emergency access road. She wanted to know how storm water run-off would impact her property. Mr. Gala replied that the water run-off issue is being included in the proposal.

Mr. Jeff Levin Scherz, 75 Woodbine Road, spoke to the proposed by-right plan, noting that it is not a true by-right plan. There are indications that this is a bad place to build a road. There are very few true public benefits to this project.

Mr. Chris Starr, Chilton Street, stated that Belmont needs new housing, needs new tax revenue, and that Mr. Chiofaro does excellent work.

Mr. Peter Dorfmann, Bellevue Road, spoke to the value of the asset that Habitat is to the town. He said the by-right development is one thing, but the waivers do not support the public.

Ms. Barbara Passero, Uplands Group, said the houses would be on wetland property. The land should be kept natural.

Mr. Patrick Dolan, Lincoln Street, spoke in support of the project and of Mr. Chiofaro.

Mr. Curtis Cole, Stone Road, also spoke in support of the project and of Mr. Chiofaro.

Mr. John Mazzoni, Adams Street, also spoke in support of the project and of Mr. Chiofaro.

Ms. Katie Battenwieser, 200 Marsh Street, expressed concerns about the height of the road, the wall, and the fence.

Ms. Martha Moore, Pct. 3, noted that three houses are allowed by-right, but that the additional two houses will impact the Habitat, the wildlife, and open space. She extolled the virtues of Habitat and requested that the Board deny the three waivers.

Mr. Jay Murphy, 5 Stellar Road, spoke in support of the project and of Mr. Chiofaro.

Mr. Frank French, TMM Pct. 2, spoke in support of the project and of Mr. Chiofaro. He spoke additionally to the public benefits of this project.

Mr. Malcolm MacKenzie, Marsh Street, spoke to the road length, the length and height of the railing, and the level of elevation of the entire area. This is a massive project, which will require a lot of fill.

Mr. Jim Roth, Chairman of the Conservation Commission (ConCom), stated that ConCom did not in fact sign off on this plan. There remains a concern that the *entire* project is not being reviewed. The water run-off is also a concern. The question of who is going to maintain the road and the culverts under the road needs to be confirmed.

Mr. Ed George, Woodbine Road, asked about the easement requirements for emergency access road. Mr. York replied that an easement is not required by General Law and case law.

Ms. Jeanne Devine, Raleigh Road, noted that she is against plans that she saw on March 6 which is different than this project and has collected 49 signatures from her neighborhood. She asked whether Mr. Chiofaro collected 300 signatures of Belmont residents. Developers, she said, have a way of wearing citizens down.

Mr. Jack McElhinney, Attorney for Habitat, challenged the easement statement.

Selectman Williams asked a clarifying question about the driveway length. Mr. Clancy answered another question and explained that ConCom can issue an "order of conditions" concerning the two additional houses. There are two lots that fall within the 100 ft. buffer zone for the wetland preservation and the ConCom issues an order of conditions.

Mr. Roth, ConCom Chair, said that the ConCom could deny the additional two lot developments or issue order of Conditions. The developer could go to the state and supersede the ruling by ConCom.

Chair Paolillo thanked the speakers for being civil and acknowledged the length of the meeting. He acknowledged Mr. Chiofaro as an upstanding citizen. Chair Paolillo stated that he is looking for a compromise solution. He feels that the first two waivers are minor in nature, but that the length of road waiver is significant. He does not see that the length of the road as being in the public interest. A compromise will allow for a 600-foot road and will allow Mr. Chiofaro to build three houses.

Selectman Baghdady agreed with Chair Paolillo, but suggested that the Board of Survey had received many new comments and the continue the hearing to April 3 at which time the developer can put forth a compromise and allow the Board to consider new comments.

Selectman Williams stated that while he can vote tonight, more time would allow him to deliberate the new comments raised tonight. Chair Paolillo proposed that the matter be scheduled at the start of the April 3, 2017 Board Meeting and no public comment will be accepted unless a new proposal is submitted by the applicant.

Mr. Clancy suggested that the applicant provide a detailed drawing that addresses the Board of Survey requirements and that the 600 ft. road can be built to the standards. If the changes can be incorporated within one week, the applicant needs to confirm that he will be able to submit the changes within that schedule.

Chair Paolillo thanked Mr. Clancy and Mr. Hall for their efforts and energy.

The Board took a five-minute recess.

**Approval of a request from the Belmont Food Collaborative to hold the Belmont Farmers' Market (BFM) in the Belmont Municipal Parking Lot from June 8<sup>th</sup> through October 26<sup>th</sup> from 2-6:30 pm on Thursday afternoons**

Dr. Suzanne Johannet, President of the Belmont Food Collaborative, appeared before the Board to discuss the request concerning the upcoming season of the Belmont Farmer's Market (BFM). This is the 12<sup>th</sup> season of the market. She explained the many initiatives of the BFM.

Chair Paolillo raised the issue of parking for the entire area. Nineteen spaces out of 200 are utilized by the BFM.

Mr. Kevin Foley, of Locatelli Inc., stated that for 12 years the BFM has operated with no input or formal policy. He said this is not a good spot for the Market. More input is necessary from the business community. "Foodies" is a taxpaying entity and the Market will be a direct competitor. The first year will be challenging for "Foodies". He requested that a new location be identified. The damage of the BFM far outweighs the benefits.

Dr. Johannet responded that an exhaustive search took place and no other options for an alternative location were identified. She looks forward to working collaboratively with "Foodies" and will support their business. The BFM has a great relationship with local businesses and it could be argued that it attracts business customers on Thursday afternoons.

Chair Paolillo stated that the BFM has no other option for space. He agreed that the Farmer's Market attracts folks to the Center businesses.

After a brief discussion, the Board decided to vote on this issue at its next meeting: Monday, April 3.

### **Discussion on the appointment of the Town Administrator Search Committee and Request for Proposal (RFP)**

Ms. Jessica Porter, HR Director, appeared before the Board to discuss the Town Administrator Search Committee Consultant and Request for Proposal (RFP). Ms. Porter said that only one proposal has been received thus far. It has not been reviewed yet. It had been suggested that Chair Paolillo, Glenn Clancy, Jay Marcotte, Brian Higgins, and Ms. Porter evaluate the proposal. The Assessment Center option was briefly discussed. Quotes can be solicited from firms.

Chair Paolillo said he'd like to consider amending the Request for Proposal and recommended appointment of the Town Administrator Search Committee on April 3. Board Of Selectmen Chair or designee, Warrant Committee Chair, Capital Budget Committee Chair, Planning Board Chair, School Committee Chair, Moderator, and a resident, Board of Assessor Chair or designee.

Selectmen Baghdady asked about how to proceed if a resident is on the committee and whether the Board of Selectmen should advertise for interest. Chair Paolillo suggested that the Board of Selectmen could make an appointment.

The Board will review the one received proposal.

### **Vote Water and Sewer Rate for FY18**

Mr. Jay Marcotte, DPW Director, and Mike Bishop, Water Division Manager, appeared before the Board to discuss the Water and Sewer Rate for FY16. Mr. Clancy suggested that a quick presentation be made. The Board opted to hear this presentation on April 3.

### **Approval of One Day Liquor License for The Rev. Cheryl Minor at All Saints' Church, 17 Clark Street, for March 31, 2017 for a Fundraiser event from 6:30 - 8:00 p.m.**

*The Board moved:* To approve the one-day license request, details noted above.  
The motion passed unanimously (3-0).

### **Approval on One Day Liquor License for Forklift Catering, 5 Sanborn Ct. in Somerville, at The First Church, 404 Concord Avenue, on April 22, 2017 for a wedding from Noon – 3:00 p.m.**

*The Board moved:* To approve the one-day license request, details noted above.  
The motion passed unanimously (3-0).

### **Vote to Reappoint Anderson and Kreiger as Town Counsel FY17 and FY18**

This agenda item was deferred until the April 3 meeting.

### **Town Administrator's Report**

Ms. Marshall deferred her report until the April 3 meeting.

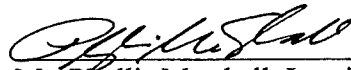
**Approval of Meeting Minutes** – This agenda item was deferred until April 3.

**NEXT MEETINGS**

Monday, April 3, 2017 at 6:00 p.m. (Location To Be Determined.)

Wednesday, April 5, 2017 at 8:15 a.m. Selectmen's Meeting Room

The Board moved to adjourn the meeting at 10:18 p.m.

A handwritten signature in cursive script, appearing to read "Phyllis Marshall", written over a horizontal line.

Ms. Phyllis Marshall, Interim Town Administrator