

2017 AUG 22 PM 2: 26

MINUTES
TOWN OF BELMONT
BOARD OF SELECTMEN
SELECTMEN'S MEETING ROOM
Friday, March 24, 2017
8:15 AM

APPROVED
BOARD OF SELECTMEN
DATE: 7-28-2017

CALL TO ORDER

A working session meeting of the Board was called to order in open session at 8:22 a.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, noting that the Board is meeting with sponsors of Town Meeting Articles proposed for the Annual Town Meeting in 2017 and is not taking a vote on its position regarding these articles today on any of the Articles discussed this morning.

COMMUNITY ANNOUNCEMENTS

- **Parking Meters** – Will be in effect in Belmont Center starting Monday, March 27. The meters are on Leonard Street and are easy to use. The first 30 minutes are free and then there is a fee (\$1.00) for additional time.
- **Town Election** – Will be held on April 4 from 7:00 a.m. to 8:00 p.m.
- **Rabies Clinic** – The Board of Health is holding its annual Rabies Clinic at the Chenery Middle School, April 8 from 12:30-1:30 pm.

QUESTIONS FROM TOWN RESIDENTS

[There were none.]

ACTION BY CONSENT

Discussion on Community Preservation Funds (TM Article 7): Floyd Carman and Anne Marie Mahoney

Mr. Floyd Carman, Town Treasurer, and Ms. Anne Marie Mahoney, Chair of the Capital Budget Committee, (and both also of the Community Preservation Committee) appeared before the Board to discuss the proposed projects approved by the members of the Community Preservation Committee for Town Meeting Article 7. Ms. Mahoney reviewed the five projects that are recommended to Town Meeting.

1. Grove Street Tennis Courts – \$336,000

This is part of ongoing effort to maintain recreational facilities.

2. Redevelopment of Sherman Gardens – \$173,200

The project is proposed to assess the accessibility of the property and improvements such as

APPROVED
JAN 13 2010 09:00
adding ramps and elevators. The assessment is phase one of the overall project to quantify what is needed and estimated costs. In addition, options to build and create more units at the site will be included in the assessment. This falls under the affordable housing category of uses for Community Preservation Funds. Subsequent construction for the project could be partially funded by the State.

3. Sons of Italy Historical Artifacts Preservation – \$24,125

This project falls under historic preservation, and the proposal is to preserve records and artifacts. They were asked to solicit private funding and there have been donations. It was a 7 to 1 vote in favor of the project.

4. Grove Street Park/Intergenerational Walking Path – \$35,000

This is an item that was part of the study several years ago. The walking path is the first element that makes the site more accessible for everyone including those using strollers for the property. The \$35,000 is for the design and construction plans, but not the cost of construction of the path. Ms. Mahoney explained the goals of the path, but emphasized that this allocation is just for the study. The Board briefly discussed the original study that projected the total cost was over a million dollars.

5. PQ Playground Revitalization Project – \$615,000

This proposal is phase two of the project to reconstruct the playground, improve the drainage system (there is considerable flooding), and repair a basketball court as well as to create a small walking path. Money was allocated for the study last year. This constitutes a fairly comprehensive revitalization of the PQ playground. Some private funds were raised. Mr. Carman provided some background information on this initiative. Ms. Marshall noted that the drainage issues need to be mitigated before new playground equipment is installed. Ms. Mahoney added that if the project exceeds \$615K, private funding will need to be applied, as the CPA amount cannot be altered.

Total: \$1,183,325

The Board briefly discussed issues surrounding this project. The CPA tax surcharge was also briefly explained.

Discussion with Planning Board Chair Liz Allison and Senior Planner Jeffrey Wheeler on Warrant Article 5 (Amend Sign Zoning Bylaw) and Article 6 (Zoning Amendment Marijuana Establishment Temporary Moratorium)

Town Counsel Mr. George Hall, Planning Board Chair Ms. Liz Allison, and Senior Planner Mr. Jeffrey Wheeler appeared before the Board to discuss Warrant Articles 5 and 6, as noted above.

Article 6 – Zoning Amendment Marijuana Establishment Temporary Moratorium

Ms. Allison began with Article 6, which proposes a temporary moratorium regarding the where the Town wishes to locate any recreational marijuana facilities in town and whether the sale should be taxed. She noted that such facilities need to be carefully considered – to carefully craft

a bylaw that the Town wants. The moratorium will give the town time to more carefully consider these issues.

Mr. Hall noted that the state is reviewing regulations concerning the opening of facilities, the selling of marijuana, etc. July 1, 2018 is the current deadline whereby the cannabis commission is starting to regulate the provisions. The procedures for “opting out” of selling marijuana (for any given municipality) are currently unclear. The Governor’s Counsel is aware of the concern from Municipalities about the “opt out” provisions. It seems prudent to have a moratorium provision in place to allow the state to form its regulations. There is a lot of uncertainty, especially given that it is illegal to sell marijuana on a federal level. Selectman Baghdady noted that the Attorney General has not yet decided how to address the difference between state and federal regulations.

This article, stressed Ms. Allison, only requests additional time to consider the issues. The proposed one year moratorium remains neutral on the issue of opting out. The Zoning By-Law requires a two-third vote. If there is a Belmont ballot question, there is no guarantee that the Town of Belmont will vote to opt out of the recreational marijuana sale. The Board will need to examine the sales tax issue.

The tax issue is the state’s highest issue according to Attorney Hall. There is a concern by the state that the tax is too low to cover the administrative costs.

Concerning medical marijuana, Mr. Wheeler noted that there is a medical marijuana overlay district which regulates the location where the minimum requirements are met for medical marijuana dispensary. There are three areas that met the dispensing qualifications in Belmont. The state issues the licenses and then a special permit would be needed from the Planning Board.

Article 5 – Amend Sign Zoning Bylaw

Ms. Allison explained the recent court decision concerning non-commercial signs (church, schools, etc.) with which current bylaws are inconsistent. Belmont wanted to know whether the Town is consistent with other communities and help to revitalize the commercial districts. It will provide for existing signage to be grandfathered under the amendment to the sign bylaw. It will hopefully improve the quality of signs in the commercial districts over time. This is the first time the sign bylaw has been updated since 1987 and this would bring the code up to current standards.

Thank you to Barbara Fiacco, Vice Chair of the Planning Board, Joe DeSefano, and Spencer who researched other town’s information as well as Jeffrey Wheeler.

Discussion on Citizen’s Petition submitted by Mr. Kim Slack - Article 9: Petition to Allow the Board of Selectmen to Consider Waste Metering Approaches to Save Money and Reduce Trash

Mr. Kim Slack and Mr. Doug Koplow appeared before the Board to discuss the Citizen Petition Article 9: Petition to allow the Board of Selectmen to consider waste metering approaches to save money and reduce trash. Mr. Slack submitted the petition for Town Meeting Warrant because he felt that the 1990 Override, which raised money for trash disposal was being used to limit consideration by the Board of Selectmen as a reason not to look at Pay as You Throw (PAYT) options for trash collection. The goal of this non-binding article is for the Board to consider all options in the new contract on waste collection and disposal.

Mr. Slack said he wanted to get a sense of the Town and encourage the Board to consider all options and put aside the 1990 override.

Selectman Baghdady pointed out that he supported all option, but the override was approved by Town ballot but Town Meeting Articles poll only Town Meeting Members.

Mr. Koplow said that the article was proposed to address a political situation. The override should continue to be used for the reason it was approved for originally. However, things have changed and there needs to be re-evaluation of the way override money is used. Pay-As-You-Throw (PAYT) needs to be evaluated, he said, but without going against the 1990 override and you gain flexibility going forward. Therefore, it makes sense to determine – at least initially – how the town feels about the 1990 override and PAYT.

Chair Paolillo read from the article and then mentioned that Board is looking at all options for waste management including PAYT and waste metering. Perhaps Mr. Slack isn't seeing that. Ms. Marshall confirmed that the working group is looking at all options and will be presenting that information to the Board of Selectmen for discussion before issuing the bid in the fall.

Mr. Slack said he understands that there are people who object to PAYT because of the 1990 override and if Selectmen are looking at PAYT then he anticipates pushback on looking at PAYT from people who are going to reference the 1990 override. Chair Paolillo said that PAYT could be viewed as yet another tax on citizens. He expressed concern that it is about how much we can tax residents of this community with overrides and debt exclusions for building projects are coming before taxpayers.

Mr. Slack said he spoke with Moderator Mike Widmer and that Town Meeting would not be about PAYT details. Selectman Baghdady pointed out that because the article calls out PAYT which will direct the discussion to PAYT.

Mr. Williams asked Mr. Hall about how the override is appropriated after the vote. Mr. Hall stated that there is no legal restriction on how override money is spent after the first year – once the first year passes, the override money is not bound to its original intent.

The Board discussed issues relating to this Article.

Vote to Accept a Gift from WT Phelan in the Amount of \$2,500 for the Fire Department's SAFE Program (Student Awareness of Fire Education)

Ms. Marshall informed the Board about the gift from WT Phelan in the amount of \$2,500 for the Fire Department's SAFE Program (Student Awareness of Fire Education).

Chair Paolillo thanked WT Phelan for their generosity.

The Board moved: To accept the gift from WT Phelan in the amount of \$2,500.00 for the Fire Department's SAFE Program (Student Awareness of Fire Education).
The motion passed unanimously (3-0).

[The Board took a five-minute recess.]

Discussion on Citizen's Petition Submitted by James R. Williams – Article 8: Amend General Bylaws, Section 40-200A, to Increase Membership of the Board of Selectmen from Three to Five Members

Selectman Williams began by noting that there are a lot of demands placed on the Board and that a five-member team may mitigate the pressures – especially given that the three-member Board cannot talk outside of a meeting (due to Open Meeting Law regulations). Selectman Williams stated that he would like this discussion take place at Town Meeting. The Town is big enough to have a five-member Board. Each member could specialize in a specific area, e.g., capital, finance, schools, etc. It makes sense going forward.

Discussion with Retirement Board (RB) on Warrant Articles

Ms. Angela Olszewski, Director and Mr. Walter Wellman Vice Chair of the Retirement Board, appeared before the Board to discuss the Retirement Board (RB) Warrant Articles. Mr. Wellman provided some background information on the RB as well as on the investment portfolio. The Retirement Board has increased the portfolio from \$91 million to just over \$94 million since December, 2016 and rated in the 13th percentile of peers, nationally. Ms. Olszewski reviewed the four articles.

The first one for discussion is Article 21 Member Survivor Minimum Benefit (section 12(2)(d)) for the spouse of an active member if the active member dies of an ordinary death (as opposed to an on-the-job-death-event, which utilizes the accidental death benefit). The local option allows the benefit minimum to increase from \$250 to \$500 per month and it currently impacts four individuals. The calculation is based on age and service. The state legislature has passed this in 1997. When the legislature passes the law, state employees and teachers receive the change automatically, but it needs to be passed under local rule. Therefore, Belmont can choose to institute this increase or not.

The second article for discussion is Article 22. The spouse of a retiree of accidental disability could not select a lifetime benefit for the surviving spouse. If the retiree dies of a cause not related to the disability, then there would not be a joint and survivor benefit to be paid. The legislative change allows for the survivor to receive the benefit (section 101). There are three currently in this group.

There is a potential for 20 retirees who have spouses that would qualify, if the retiree passes

away from a cause not related to the disability, however, until the cause of death is known the number of individuals eligible for the benefit is undetermined.

The group is finite because the law changed on November 7, 1996 to allow members retiring the ability to choose option C. The Retirement Board is recommending the increase in the annual benefit to \$12,000 instead of \$9,000 which is the legislative option from 2010 as a more appropriate amount. Retirees who were teachers already receive the benefit at \$12,000 for spouses and this proposal would make the benefit equitable for town retirees.

The Board reviewed the additional costs associated with these articles.

Concerning the COLA increase – Article 20 – this will allow the RB to raise the COLA base to \$14,000 – up from \$12,000. The 3% COLA was voted by the Retirement Board at their meeting on March 23, 2017 and the voted COLA would be based on \$14,000 going forward. Ms. Olszewski noted that this will help offset health insurance rate increases. The health insurance rate increase in FY18 is budgeted at 9%.

Ms. Jessica Porter, HR Director, approached the table to explain the 9% health insurance increases on the Medicare Plan B covers the 80% for hospital/medical care and the supplemental insurance can be elected for Medicare eligible retirees. However many retirees elect the supplemental plan option offered by the Town covers 80 of medical plan B, but not prescription. The EGWP (Employer Group Waiver Plan) will be implemented in January, 2018 and will result in reduced copay for prescription cost for the Town and Employee share for prescription.

Concerning Article 19 – Increasing the Stipend for Retirement Board members – Ms. Olszewski stated that the legislation of 1997 allowed an increase the RB's annual stipend which was voted by Town Meeting in 1997. The article would increase the stipend from \$3,000 to \$4,500 and would be paid from investment income. She noted that their responsibilities have increased in Retirement Board member personal filing requirements, management of a larger portfolio, required training and education credits. Chair Paolillo suggested that the RB stipends of other communities be researched."

Discussion on Citizen's Petition submitted by Ms. Anne Mahon – Article 10: Welcoming Town Designation

Ms. Anne Mahon, TMM Pct. 4, appeared before the Board to discuss the Citizen's Petition concerning the Welcoming Town Designation. Ms. Mahon explained the need for the Welcoming Town Designation in Belmont. She said she felt some kids are afraid of deportation and she wants these families to feel safe in Belmont. She wanted people to see that as a community the majority of people in Belmont are going to support people who are afraid.

Mr. Hall, Town Counsel, joined the table to speak to the legal impact, which is negligible and referenced the Metropolitan Area Planning Commission (MAPC) memo. He said that, since this is a non-binding resolution, it will not impact federal funding because it doesn't change any policy administered in the Town. Selectman Baghdady asked about the phrase "Sanctuary City". Mr. Hall said that there is no definition of "Sanctuary Cities" but are generally about policies that

the police may have about asking questions of immigrant status. The current policy, for the Police Department, is not to ask about immigration status since the Belmont Police are not deputized for enforcement of immigration laws.

Police Chief McLaughlin and Assistant Police Chief MacIsaac joined the discussion. Chief McLaughlin explained that the designation does not change the policy of the department, but he has some concerns. It is not really needed, given the job of the police is always to help people in the community. That is the mission statement. The department does not ask people first and foremost about their immigration status. There is some concern, he said, over this designation as it results to local, state, and federal law and it cannot prohibit the department from carrying out law. He has concerns about wording in the resolution that would cause complication with regulations made by Immigration Customs Enforcement (ICE) and probable cause that are not decided by the Belmont Police Department.

Assistant Chief MacIsaac stated that the last "Whereas" section concerns the Police Department. It cannot state that the Police do not respond to ICE inquiries, which would violate provisions to cooperate with other law enforcement agency contrary to law. The Police department does respond to Immigration & Customs Enforcement (ICE) inquiries. However, if stopped for a minor infraction, the department does not generally ask about immigration status. But, Assistant Chief MacIsaac stated, they might in fact inquire about immigration status as a way to protect an immigrant.

Mr. Hall stated that this petition is a statement of "beliefs", and would not tie the Police Department's hands in any way.

Chair Paolillo suggested that Ms. Mahon make a few adjustments to the Article. She stated she will intend to meet with the Police Department to adjust the Article.

Superintendent John Phelan on Special Education Reserve Fund – Article 18

Superintendent John Phelan appeared before the Board to discuss the Special Education Reserve Fund Article. Superintendent Phelan explained that this is from a state modernizing bill to preserve funding for Special Education out-of-district tuitions. He noted that creating such a fund would act as a savings fund to address unknown expenses for Special Education which has been a big line item. Three years ago, a shortfall of \$750,000 was Special Education out-of-district tuitions and addressed by the override, IDEA federal funds and Circuit Breaker funds help to address these expenses. Setting aside this funding has been challenging from year-to-year. This article allows for the *establishing* of the fund, not for the allocation of funds. The current SPED Stabilization fund could be kept in place, as well. However, the Special Education Reserve fund does not require a Special Town Meeting and additional expense for convening a Special Town Meeting (as required for Stabilization Fund), but approval by the School Committee and the Board of Selectmen is required.

Mr. Williams asked Superintendent Phelan questions regarding immigration status of students in the Belmont School System enrollment. Superintendent Phelan explained that when children are presented for enrollment, it is required that residency in Belmont be demonstrated. The School

Department is not allowed to ask about immigration status. However, if a visa is presented in demonstration of residency, then it is noted.

Discussion on Citizen's Petition submitted by Mr. Robert L. Sarno – Article 27: Transfer from Un-appropriated available funds in the Treasury a Sum of Money to the General Stabilization Fund

Mr. Bob Sarno, TMM Pct. 3, appeared before the Board to discuss Article 27: Transfer from un-appropriated available funds in the Treasury a sum of money to the General Stabilization Fund. Mr. Sarno explained that the petition transfers money from free cash into the General Stabilization Fund. Free cash is currently robust at \$7.1M. Transferring some of the free cash into the General Stabilization Fund preserves the funding for “rainy days” which are coming. He said he is looking to put money into the Stabilization fund – the amount to be proposed will be determined later (but before Town Meeting). He added that he will work with the Board to set the amount. The goal is to shore up money for the many needs of the town as well as to extend the override money and exert fiscal discipline.

Chair Paolillo noted that the Board intends to study the free cash/general stabilization fund issue. He agreed with the notion of saving for rainy days and keeping the general stabilization fund funded.

Selectman Williams raised the topic of the need to meet the retiree benefit obligations.

Selectman Williams asked Mr. Hall to describe a problem with the Citizen Petition regarding the number of Selectmen in Belmont. Mr. Hall explained that he had submitted a request for clarification to the Attorney General Office regarding MGL Chapter 43 (b) Home Rules . Procedures Act) which prevents you from increasing the Board of Selectmen without legislative action. He stated that, even if the Citizen's Petition article passes, the Attorney General's Office will not approve it.

Town Administrator's Report

Ms. Marshall reported on the following items:

- **Discussion on Park Trash Receptacles:** Mr. Jay Marcotte, DPW Director, Mr. Mike Santoro, DPW Assistant Director, and Ms. Marybeth Calnan, Recycling Coordinator, appeared before the Board to explain the recent problems with dumping of waste in parks and playgrounds. Chair Paolillo stated that he now understands the issue having viewed photos of trash on the playgrounds.

Mr. Marcotte explained that barrels have been overflowing at the playgrounds, parks, and fields. He explained the current barrel-emptying schedule and costs for overtime necessary for maintaining areas and illegal dumping on Town property. Trash is being dumped inappropriately and is strewn everywhere, even if the barrel is not full. Chair Paolillo suggested that a consequence of this behavior is that the permit to use the field will need to be revoked.

Ms. Marshall explained the “carry in/carry out” policy that has been suggested. If the barrels are removed, Selectman Baghdady asked, will trash pile up? He suggested that consequences and enforcement of consequences be put into place. For example, fine those who litter. This may make more sense than removing the barrels. Mr. Santoro agreed that all the field and playground users need education. Birthday parties are being used at the parks, with no permitting, and the trash is being left behind. Also, public barrels across town are being abused. Pizza boxes and other inappropriate items are being shoved into full barrels. The Board discussed increased enforcement. Mr. Marcotte explained the benefits of the “carry in/carry out” trend. Chair Paolillo suggested that a temporary “carry in/carry out” policy be considered. The policy can be reviewed after a trial period.

- **Draft Request for Proposal (RFP) for OPEB (Other Post-Employment Benefits):** Ms. Marshall stated that components of the Wayland model have been incorporated into the RFP. The Board will review the RFP and will offer feedback.
- **Distribution of Emails:** Ms. Marshall raised the topic of Selectmen’s emails. Selectman Williams stated that he does not want to receive anonymous, political emails sent to the Town Selectmen’s email box. The Board briefly discussed the email issue.

Approval of Meeting Minutes

The Board will review and vote at Monday’s Board meeting.

Other

Chair Paolillo briefly discussed the agenda for March 27, 2017 meeting. Also discussed was the new parking policy for Belmont Center.

NEXT MEETINGS

Monday, March 27, 2017 at 7:00 p.m. Selectmen’s Meeting Room Town Hall
Monday, April 3, 2017 at 6:00 p.m. Auditorium, Town Hall

The Board moved to adjourn the meeting at 12:01 p.m.


Ms. Phyllis Marshall, Interim Town Administrator