

Warrant Committee FY06 Meeting Minutes
April 6, 2006
7:30 p.m. Chenery Middle school, Community Room

Handout(s) distributed tonight are:

1. Transfer request from Building Department for energy
2. Cost of retirement acceptance for disabled retiree adjustment
3. Wetland Bylaw Subcommittee handout that had been distributed to the WC earlier in the day

Member(s) absent:

Also present: Town Accountant Barbara Hagg, Town Administrator Thomas Younger, Assistant Town Administrator Jeff Conti, BOS Members Brownsberger & Firenze, Town Treasurer Floyd Carman, Gerry Missal, Martha Moore, Nancy Davis and Ruth Foster.

WC Chair Jones called the meeting to order at 7:30 PM.

Minutes of 3/29/06 – Will be discussed next week

Wetland Protection Article 25 ATM

Martha Moore from the Wetland Bylaw Subcommittee of the Conservation Commission gave a prepared statement. They are charged with the fair application of the bylaw and the protection of the wetlands. Buffer protection is weak under MGL near streams and ponds and cumulative impact of activities around town are indicative of the direction we are going with the degradation of existing water quality. The Committee had distributed their materials to all the WC members earlier in the day and such is attached to these minutes. The passage of this bylaw would involve the establishment of a fund that would have fees being set aside for outside consultants and other costs to administer this bylaw. This local bylaw would grant additional protection over and above the requirements of EPA, DEP, and other state agencies.

Chair Jones noted that the bylaw included language that if the Committee should have concerns, the BOS “shall” take legal action. It was explained that in some communities there is an adversarial relationship which is why such language is used. Member Heigham stated that the Conservation Commission is a required Commission under state law. Further they have a three year term and do not serve at the pleasure of the BOS. Member Curtis asked what the intent of the Bylaw being submitted is. Is this to compel BOS and Town Counsel to enforce rules under civil law? The attendees answered that they are trying to balance the interest of the homeowners. They don’t want a lawsuit and would start with a stop work order or fine. Further historically during the past 14 years there have been only four appeals denied. One of the appeals of the denial is a homeowner’s neighbor, the Uplands project, one of the churches, and the land bordering the brook. The Commission wants to work with people before the

project happens to protect the resources. Appeals go to DEP and request a superseding order which is either granted or denial. What is a denial asked Member Tillotson? Denial of an application is considered denial. He further asked what would be the impact, does it supplement or supplant? The 200 ft is a riverfront resource area & this is state law. This proposal would not impact the riverfront law. This would be for ponds, wetlands, and intermittent streams where the current law is not as strict & would set up a 25 ft setback. Residents of Little Pond, and residents of other areas are already required to come before the Conservation Commission if they want to make changes. There would now be a state fee and a local fee & therefore an increase in the dollar charge to the homeowner. The fees right now are sliding. A deck could be \$75 currently and this could add another \$75 for the homeowner. Currently there are fees, fines, and money for consultants involved. Town Administrator Younger asked if additional staff would be required. The answer was that they did not think so. Member Heigham stated that the current proposed language allows the Commission to go onto anyone's property, not just the applicant. Vernal pool certifications would be an ongoing project and hopefully be complete over the next couple of years. Usually these occur in the middle of wetlands. Habitat, Rock Meadow, the incinerator site all have such naturally occurring phenomena. These help with mosquito control.

Member Fitzgerald asked about the financial impact on the Woodfall Road land transfer, McLean & the Uplands projects – unknown. They are determined to protect the existing projects. Some amendments have been made to accommodate concerns. The McLean district is exempted for six years so that their project can be completed. Junction Brook is not jurisdictional for the Commission. Member Fitzgerald stated and the Commission agreed that there has been no economic impact analysis.

Member Curtis asked whether there are specific concerns at O'Neil properties or Little Pond or whether there is just a general concern. The answer is that Little Pond is settled. Large lots and large developments in the upper reaches of Atkins Brook and other places on the Hill are concerns. As protections are taken away in the upper areas, there are storm surges in the lower areas.

Member White asked about the practical implications. What would be the differences for people with water on their property? If the property is isolated land subject to flooding they would be impacted.

Chair Jones stated that the WC is reviewing this because of the possible financial implications to the Town, possible change in property valuations with the change and the funding/financing uses.

School Chair Gibson asked about the HS site. The building is close to the edge of the buffer. The driveway is grandfathered in. One room is in the wetland. An addition where the gymnasium is would be outside of the buffer. There is

documented flooding around the HS, the playing fields (floodplain), and sometimes within the HS. The language from Arlington is being used in some parts of this bylaw which the Commission found helpful.

Member Heigham asked about intermittent streams. Junction Brook is neither an intermittent stream nor perennial according to the court and therefore not affected but intermittent streams are within their jurisdiction.

Member Brusch asked about the effect on the library. Part of the library is within the wetland. Riverfront rules trump this local bylaw. Further what is the affect on the R&D building at McLean especially given the length of time that any of these projects have taken? Also, the cemetery, this would be exempt for the six years. Part of the cemetery is not expected to be used for at least 20 years, well outside of the six year exemption. This will be considered by the Commission.

All the bordering communities except for Cambridge and Waltham have Bylaws that are as strict as those being presented. The Uplands project is under the Chapter 40B application and therefore their project would trump the by-law and already have a preexisting approval from the DEP. DEP ruled against the Conservation Commission. The appeals process involves going to Superior Court. Legal costs would be borne by the Town, not the Conservation Commission. Superior Court only rules whether the Board has followed their own procedures and bylaws. There is a waiver for hardship and an overriding public interest (High School).

The BOS has not taken a position. Sustainable Belmont (under the Vision Committee) has voted to support. BOS Chair Solomon stated that the BOS will vote on all pertinent articles. Chair Jones has requested the incorporation of the State Water Quality Act. This would normally go into the regulation.

Ruth Foster from the Conservation Commission was in attendance. She stated that there are already over 300 pages of wetland protection language that the Commission is required to follow.

Chair Jones is also concerned about the Woodfall Road project. The Committee wanted economic impact information. Other members are concerned about the language of the by-law. Jeff Conti stated that this is on the warrant in its most recent form and there was going to be a statement going to the TM members but this has not been sent with the Town Clerk package. Member Heigham recommended a negative report on this by-law. BOS Chair Solomon and Member Doblin abstained since more information will be forthcoming. Language on "shall" and "will" shall no doubt be considered by the subcommittee. This Committee has done a great deal of work on this bylaw and should be commended for their hard work per Chair Jones. There is no anchor to tie this to Water Quality scientific reference or water quality standards. Member Widmer

stated that this is a very late date not to have answers to all these questions. In favor of negative vote: 13 and 3 abstentions (Allison, Solomon & Doblin).

Business Software ASP vs. Purchase

Member Tillotson stated that since the override did not pass this changes the dynamics of using operating funds for the ASP solution. Member Paolillo stated that the only option right now is the borrowing solution. Also, ASP solution would tie us to the MUNIS Company. ASP is for cities and towns without an IT department. Only 10% of new users with MUNIS use ASP. Member Tillotson stated that after discussion with Dave Petto, the feeling was that there are sufficient personnel to take care this work in house.

Reflection on the Road Stabilization Fund Override

Chair Jones stated that based on the vote against the override vote, it is important that we produce a budget that does not include additional funds. But we should fast forward some of the functional changes that we have been researching including the closing and sale of the Benton Library. Member Widmer agreed that we need to proceed on a budget using available revenues. Chair Jones stated that reduced level of services budget for both the Town and School have been presented. Member Curtis stated that we should be looking at a no override budget for years to come and how we will be operating the town with the gap that will be opening to a chasm over the next year. We need to look at different ways of doing work. An idea is to look at leasing out all assets: rink, swimming pool, etc in order to provide some level of service and have the leaser charge fees and provide services. The override of 70/30 loss is a firm mandate. Member Doblin stated that perhaps we should not overanalyze this since the vote was for roads, not schools. Why should the town pay for a smoother commute rather than for services for the town? Mobilizing of constituencies was not done this time but should be done in the future. Member Widmer stated that even if we can control health care the tough decisions will have to continue to be made. Several years ago Lexington lost an override and came back within 18 months and had an override with multiple line items that all passed. Member Fitzgerald stated that there are other communities that charge additional fees for children. No one in Belmont has chosen to implement those fees. Member Gibson is very concerned about the school cuts and would like the BOS to consider another override. School Chair Gibson stated that this was her personal thought and the School Committee has not yet considered this matter. Member Callanan stated that she felt that the split of the \$3M for roads as a portion of roads and the \$1M of preexisting roads was too confusing. We need to discuss "core services" and what is

the level of services that citizens are willing to support. More community discussion is needed. Member Allison stated that if WC and BOS had shown a greater sense of stewardship (example health insurance) there may have been a greater feeling of support. Member White wanted to have us consider level of service versus structure of service. The number of people delivering services is not changing the "structure". Example, instead of cutting the # of library employees, we close the library on Mondays. The number of police sectors should be considered. Look at the structure.

Transfer Request from the Town Clerk

Motion made to approve by Member Tillotson, seconded by Member Heigham. Unanimously approved.

Warrant for ATM

Articles 22, 23, and 24 regarding liquor licenses. Member Heigham did not feel that this was within the purview of the WC, not financial or economic. Member Widmer felt that there may be an economic impact in that there could be economic development downtown. Member Tillotson agreed that this could be an economic stimulus. Member Widmer made a motion to have the WC support articles 22 and 23. There was some discussion of qualifications for these new licenses. There will be a process per TA Younger. 12 in favor. Opposed Bruschi. Abstain: Oates, Heigham, Allison.

Article 27 – Recreation Commission - This has been withdrawn

Member Bruschi asked that we request the Recreation Commission to voluntarily delegate the responsibility of appointment and oversight of the Recreation Director. This would give the Commission some level of assurance that this would be successful on a trial basis and work out the kinks before we go for a bylaw change. Member Callanan agreed that is important that we do something rather than waiting a year.

Article 26 – Tax Deferral. Treasurer Carman was in attendance to discuss this issue.

There are currently 21 taxpayers that take advantage of the law that allows them to defer payment of their property taxes until sale of the property or death. The BOA is asking to drop the interest rate from 8% down to 4.5%. We currently have \$938K due (\$655K in principal). What is the effective date of the interest change? Does it go back in time and forgive that prior accrued interest. He suggests we tie the interest to the borrowing rate that is currently at 5%. This tie would allow for an annual change as needed. The cost of this interest forgiveness is approximately \$125K. The savings goes to 21 residents. Jeff Conti has another concern in that the language refers to MGL and Town Moderator Hall questioned the town's authority to reduce the rate under that MGL. The City of Cambridge has reduced their rate to 4.5%. Member Heigham stated that "if we can" he would be opposed. Delinquent taxpayers are facing a 14% penalty, not the 8% that is being charged to deferred tax payers. BOS Member Firenze stated that this would help to protect our elderly residents that take advantage of this provision. He is in favor of tying this to the borrowing rate. Treasurer Carman stated that the highest amount accrued is \$80K. This has more to do with wealth transfer and the benefit goes to the surviving

children. Member Allison stated that the benefit is a transfer from town to heirs unknown and at 8% there may be 21 people and at 4.5% there will be more since this is a very attractive loan program. Also there has been a proliferation of tools that will allow seniors to take equity out of their homes. The WC would like to have the proponents attend the meeting to discuss the issues.

Article 27 – Quarterly tax billing – clarified previous law that was passed. At least one of the changes has been recommended by the DOR.

Article 28 – Zoning

Article 30 – Historic Accessory Building – someone will come to discuss – 4/19

Article 34 – Disposition of the Harvard Lawn Fire Station – transfer care & custody to the BOS – the BOS has appointed a Committee to prepare an RFP to maximize revenue and be consistent with a residential area. Member Callanan will be the WC appointment to the committee. The WC voted unanimously in favor.

Other

Member Heigham moved adjournment at 9:50 p.m.