

**MINUTES  
TOWN OF BELMONT  
BOARD OF SELECTMEN  
SELECTMEN'S MEETING ROOM  
Monday, March 6, 2017  
7:00 PM**

**APPROVED  
BOARD OF SELECTMEN  
DATE: 6-5-2017**

**CALL TO ORDER**

A regular meeting of the Board was called to order in open session at 7:07 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.

**COMMUNITY ANNOUNCEMENTS**

[There were none.]

**QUESTIONS FROM TOWN RESIDENTS**

[There were none.]

**ACTION BY CONSENT**

**Convene as Board of Survey - 178 Marsh Street**

*The Board moved:* To convene as the Board of Survey at 7:09 p.m.  
The motion passed unanimously (3-0).

Mr. Glenn Clancy, Director of Community of Development, Mr. Mina Makarious, Town Counsel, Mr. Don Chiofaro, Owner, and Mr. Al Gala, Engineer, appeared before the Board to discuss 178 Marsh Street. Mr. Makarious explained the role of the Board of Survey in lieu of town acceptance of the Planning Board and the Subdivision Control law. Board of Survey approval of plans is more limited in approving plans than the similar role of the Planning Board and Subdivision Control law, but looking to see if the plans are within the regulations of the Town. Any waivers requested are subject to a reasonable modification but there has to be a good basis for denial as opposed to modification by the applicant.

Don Chiofaro, of 178 Marsh Street, explained that his property is situated on almost 7 acres and that he had always intended to develop this property. He connected the property to the sewer system on Woodbine Road. The road being proposed will access the property from Marsh Street. The proposed new road meets the Conservation Commission (ConCom) standards in the order of conditions. This development complies with existing state and local law.

Mr. Gala, on behalf of the design engineers, presented the existing conditions of current property

layout. He explained 6.86 acres with one house, the topography, the storm water issues, drainage, as well as resource areas approved by the Conservation Commission. The Depression shown is taking Stormwater from the adjacent road.

The proposed layout includes a road (751 feet long) and the five potential buildable lots. The road will have granite curbing and sidewalks. A network for drainage that will clean Stormwater with six culverts is proposed. A looped water system with 8 inch line is planned from Marsh Street to Woodbine Road and sewer system which will allow all six properties to run into the Woodbine Road pump station. Three waivers are required: slope has to be ½ percent but proposed one percent slope, sidewalks are required throughout the site, but the proposal omits sidewalk for a portion near the culverts and roadway length maximum is 600 ft. but proposal is 751 ft.

Mr. Chiofaro explained his interpretation of the road requirement in the Town regulations and his opinion that the waiver wasn't needed as it relates to the cul-de-sac. Mr. Makarios offered that the regulations pertaining to dead-end streets a turn-around which is a cul-de-sac and not two separate terms.

Mr. Clancy explained his role as Town Engineer in review of the application before it is submitted to the Board of Survey and discussed the three requested waivers:

1. slope of road
2. sidewalk length
3. length of road

He spoke to the storm water bylaw requirement. There is nothing being proposed for the road construction that triggers a ConCom restriction. However, the storm water bylaw required a peer review. Stantec, the Town storm water consulting firm, raised several issues, which in fact, were worked out. Concerning the road length, there are several roads that exceed current requirements, but they were built prior to 1989 when the current road length regulations were written. The desire is that the new road not be constructed to intersect with an existing road too steeply and the requirement for road slope is .5% to 1%. There is a section of sidewalk that is too narrow to allow construction of walk and the waiver is that that section would not include walk because the person could cross over the road for 200 ft. and then return to the constructed sidewalk. It is the role of the engineer to understand why the waiver was requested.

In terms of the peer review, the storm water bylaw change required that the applicant pay for the third party review. The establishment of resource areas by the Conservation Commission and it was an extensive process to establish the areas. Ultimately, the hearing was scheduled with the Board of Survey and a memo was prepared because it seemed that there may have been ConCom jurisdiction and the Board of Survey hearing may have needed to be continued pending the ConCom hearing. However, the Board of Survey is looking only at the construction of the road and not affecting the resource area. Conversation with the peer review led to modifications in the plan by the applicant and the issues were satisfied. Mr. Clancy was able to find four roads which exceed the 600 ft. regulation; all were constructed before 1989 and are the following:

Kenmore Road/Garfield Road, Snake Hill Road, Day School Lane, and Woodbine Road

Mr. Clancy noted that Public Works and Public Safety Departments have signed off on the proposed road length.

Selectman Williams asked about the regulations for dead end street and cul-de-sac. He asked Mr. Makarious to read the Board of Survey regulations Article 1.1 and then, Mr. Makarious pointed out that the term "public interest" doesn't have definition, but what do the rules say, for example whether fire equipment can be accommodated, past practice appropriate, and whether there is a reason not to grant waiver.

Selectman Williams asked about the environmental concern and the action of the Conservation Commission (ConCom).

Mr. Clancy stated that, while the ConCom does *not* have jurisdiction over the construction of the road, they will have jurisdiction over two of the proposed house lots relative to the conservation buffer zone from the vegetative area. Because Belmont has a Board of Survey which has strict consideration of the layout and construction of the road and the Zoning bylaw govern the development of buildable house lots along the road. Mr. Cliff Rober, Land Surveyor, stated that the water line is being looped from Marsh Street to Woodbine Road, which constitutes an improvement.

**Audience Comments:**

Mr. Roger Wrubel, Habitat Director and Town Meeting Member, Pct. 5, asked about the road location and grade. Mr. Gala explained how the road is proposed, noting that it has a six-foot elevation for a portion. It was noted that the neighbors who now see trees - will see a wall, pipes, and the road about six feet in height.

Mr. Wrubel noted that the Habitat borders this property. He explained the virtues of the Habitat, noting that it is a sanctuary for wildlife and is home to precious open space in Belmont. He noted that this development will adversely affect the Habitat, its wildlife, and its nature trails. He asked that the Board of Survey deny the three requested waivers. He listed information from other communities with subdivision regulations. Mr. Wrubel stated that he has a petition with 233 Belmont resident signatures in support of not granting the waivers. He requested that the Board of Survey grant an easement across the property at 178 Marsh Street for access to the Habitat.

Mr. Jack McElhinney, Attorney on behalf of the Audubon Habitat Society, read his letter (sent to the Board of Selectmen on March 1, 2017). The letter expressed its concern and strong objections about the applicant's requested waivers and urged the Board not to grant those waivers. The waivers do not serve the public, he said, they only serve the developer. Barbara Passaro, Chair of Belmont Uplands Alternatives Committee, the road cannot be shortened and asked that the Town not to grant the waiver on the length of the Road.

Mr. Jeff Levin Scherz, Woodbine Road, expressed his thanks to the Board, to Town Counsel, and to ConCom for their energies and efforts. He stated that there are ponds on the property and

wildlife live in these ponds. This is space precious in Belmont and there is not a powerful reason to develop this land.

Mr. Art Kreiger, 1 Townsend Road, stated that Habitat is a special place to his family. He asked some clarifying questions about the road. In answer to a conflict-of-interest question from Selectman Baghdady about Mr. Kreiger's Partnership at Anderson and Kreiger, he stated he is not speaking for Anderson and Kreiger, he is speaking for himself as a Belmont resident. Mr. Kreiger stated that the overriding public interest is to preserve the Habitat, not to help the developer. The longer road allows for more houses.

Mr. Chiofaro thanked the Board for pointing out the conflict of interest. He said the Public Safety departments have opined on the road and have found it meets their standards. The pond will be preserved. He then explained the rationale for the current placement of the road. Mr. Rober added that, because Woodbine is a private road, it did not make sense to pursue having the road connected to Woodbine. However, it might have been in the public's best interest, but the abutters did not support this notion.

Christina Ferrera, Woodbine Road asked whether a waiver required to add to the longest Road in Belmont at Woodbine Road which is a private way.

Mr. Clancy indicated that it would not. Mr. Chiofaro's property does not have access to Woodbine. Mr. Mark Davis, TMM Pct. 1, stated that these waivers do not serve the public's interest. He stated the road length waiver would set a bad precedent. He also cited public safety as a reason.

Ms. Dana Miller, a Marsh Street resident and Traffic Advisory Committee member, expressed concern about the waivers. She said she would like to know what the plan looks like without the waivers. She also spoke to safety issues – traffic, runoff, etc.

Ms. Ellen Kaplan, Woodbine Road, voiced her opposition to this.

Ms. Carolyn Bunyon, Albert Ave., stated that taxes are high and this will help with taxes. He should be allowed to build as long as he follows the rules. She stated that she supports the project.

Mr. Malcolm MacKensie, Marsh State, asked about blasting. Mr. Gala replied that there will be no blasting.

Chair Paolillo spoke to the waivers, stating that the length of roadway is the most significant one. He requested more information on the issue of the road length. Selectman Williams asked for additional information on the grade of the road and the height of the wall and whether it was to address drainage impact to the site. Selectman Baghdady asked about a potential landscape mitigation plan. Selectman Williams asked about the legal standard for the Board of Survey which exists due to the Town not accepting the statutory provision for the Subdivision Control as well as the standard of public interest via property rights.

The Board stated it will gather the above noted additional information and reconvene the Board of Survey on March 27.

[The Board took a brief recess.]

### **Return to Board of Selectmen Meeting**

*The Board moved:* To exit as the Board of Survey at 9:00 p.m. and resume the Board meeting.

The motion passed unanimously (3-0).

### **Discussion on Adopting 25 Miles Per Hour (MPH) Statute – Chief McLaughlin**

Police Chief McLaughlin, and Mr. Glenn Clancy, Town Engineer and Director of Community Development, appeared before the Board to discuss adopting a 25 MPH statute. Chief McLaughlin explained the Municipal Modernization Act in 2016 which provided an option allowing for municipalities to adopt a 25 MPH speed limit within the thickly settled areas and business districts. A number of residents have expressed interest and support for adopting this statute. He noted nearby communities that have or will be adopting the statute including Arlington, Boston, Cambridge, Chelsea, Lexington, Newton, Sommerville, and Watertown. He spoke to the safety aspects of this measure and said he supports it fully.

Chief McLaughlin noted that the all but three areas of town would be considered “thickly settled” and therefore will fall under the 25 MPH statute. Mr. Clancy explained the definition of “thickly settled”. Concerning implementation costs, Mr. Clancy noted that there will be signage costs. The Chief stated that enforcement will work similarly to the way it works now.

Ms. Marshall stated that there will be a Town Meeting (TM) article (bylaw) relating to this issue. The Board will need to sponsor the article and TM will vote on it.

The Board discussed issues relating to this notion, expressed their support for it, and agreed that signage costs should be kept to a minimum.

### **Approval of FY18 Cooperative Fuel Bid - Noonan Brothers of Worcester, MA**

Mr. Jay Marcotte, DPW Director, appeared before the Board to discuss the FY18 Cooperative fuel bid. Mr. Marcotte explained the fuel bid, noting that 11 communities participate in the cooperative bid. This allows for the best possible pricing.

The Board briefly discussed the three fuel bid contracts.

*The Board moved:* To approve the FY18 Cooperative Fuel Bid for the following three contracts: Peterson Oil for diesel, Noonan Brothers, and DeVanney Energy.  
The motion passed unanimously (3-0).

### **Approval of One-Day Liquor License Application from Leonard Kardon, 65 Tanger Street**

**Arlington, MA. to serve Wine and Malt at a Bar Mitzvah scheduled for March 25, 2017 from 6 pm-10 pm to be held at the Beech Street Center at 266 Beech Street**

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

**Approval of a Request to Hold the Annual Memorial Day Parade and Exercises on May 29, 2017 beginning in Cushing Square at 11:00 A.M.**

*The Board moved:* To approve the request to hold the annual Memorial Day Parade and Exercises on May 29, 2017 beginning in Cushing Square at 11:00 a.m.  
The motion passed unanimously (3-0).

The Board expressed its wish to *not* have a rain date for this event (even if it is raining).

**Approval of a One-Day Liquor License Application to serve Wine and Malt from the Belmont Gallery of Art, 19 Homer Street, at its “Art Blooms in Belmont” Opening Reception on Thursday, March 30, 2017 from 6 pm -8:30 p.m.**

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

**Approval of a request from the Human Right’s Commission (HRC) to issue a Proclamation in recognition of the Armenian Genocide**

Chair Paolillo stated that he will read the Proclamation on March 27

*The Board moved:* To approve the HRC’s request to issue a Proclamation in recognition of the Armenian Genocide.  
The motion passed unanimously (3-0).

The Board signed the Proclamation.

### **Town Administrator’s Report**

Ms. Marshall reported on the following items:

- **Vote to Reappoint Anderson & Kreiger as Town Counsel FY17 and FY18 – Ms. Marshall** noted that the rates will remain the same. Selectman Baghdady expressed his concern for the lack of objectivity shown tonight by Mr. Kreiger. He said the firm makes a profit from the town and it makes the town look bad when a Partner takes a personal interest in a matter before the town, without publically acknowledging the conflict of interest.

Mr. Carbonne, from Pct. 2, explained how Town Counsel was appointed in Watertown.

The Board deferred action on this matter.

- **Vote to Reappoint Morgan, Brown and Joy as Labor Counsel FY17 and FY18**

*The Board moved:* To re-appoint Morgan, Brown and Joy as Labor Counsel FY17 and FY18.

The motion passed unanimously (3-0).

**Committee Liaison Reports / Other**

***OPEB***

Selectman Williams raised an issue concerning the RFP issuance by the OPEB Study Group. This group, he said, did not have the authority to make the decision to hire KMS. Ms. Marshall explained the RFP for the actuarial audit as well as the timing issue. Selectman Baghdady agreed with Selectman Williams that the study group should not have changed the timing of the report.

Chair Paolillo requested more clarity on this issue.

***Paid Parking***

Ms. Marshall noted that there will be paid parking instituted on Leonard Street. This will be a change, and the community will be notified of the change.

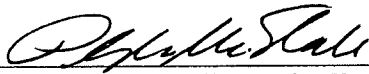
***Division of Capital Asset Management and Maintenance (DCAMM)***

Ms. Marshall said she is hopeful that DCAMM will soon have a deed for the Incinerator Site.

**NEXT MEETINGS**

Friday, March 10, 2017	8:15 A.M.	Town Hall Selectmen's Meeting Room
Monday, March 27, 2017	7:00 P.M.	Town Hall Selectmen's Meeting Room

The Board moved to adjourn the meeting at 9:40 p.m.

  
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Ms. Phyllis Marshall, Interim Town Administrator