

Board of Selectmen – December 17, 2012

Present: Searle, Tsagaris, Gibbs, Babson, McCauley

Also present: Larsen, Connolly, Robinson (Mr. Robinson departed at 10:05)

Call to order: Meeting called to order at 7:00 pm.

Warrants approved: #27 in the amount of \$1,669,500.45

Ms. Tsagaris announced the next Selectmen's meeting would not take place until January 2, 2013. Ms. Tsagaris expressed the Town's condolences to those affected by the tragedy in CT at the Sandy Hook Elementary School. The Schulers were thanked for another year of organizing the Salvation Army bell ringing. Chief Cunningham and his wife were thanked for joining 600 families at South Station on Saturday where a train car was converted into the Polar Express. The Chief and his wife sang songs and read the Polar Express book.

**1. Citizen speak:**

None.

**2. Executive Director's Update**

**The Board voted (5-0) to approve the minutes of the Board of Selectmen meetings for November 13, 19, and 26, and December 7, 10, and 13, 2012.**

Mr. Larsen noted that we received initial copies of the Town Report. Additional copies will be available from the printer later in the week.

Mr. Larsen noted that a list was given to the Selectmen that noted all the CV and Takeout Food Licenses that will be approved with the exception of a few businesses that still need to submit paperwork. Mr. Larsen asked the Board to raise any issues or concerns they may be aware of.

Mr. Larsen also noted that Asian Wellesley has asked for a reduction or elimination of the requirement that they make provisions for 50 off-site parking spaces. Leasing these spaces has become a financial burden and they are not heavily used. Mr. Larsen indicated he would ask the Board to make a decision on this request at the Board's next meeting. The Board discussed the issue briefly. Mr. McCauley noted that in the coming year he would like to discuss the traffic queues and other parking issues at the Dunkin Donuts on the westbound side of Route 9. Mr. Larsen noted the owner has made repeated offers to support the Town's acquisition of the remaining Aqueduct parcel, with the objective of leasing a small portion of that parcel to expand the parking for his business.

**3. Veterans Property Tax Exemption (M.G.L. Ch. 59, Section 59)**

Stanley Spear, West Suburban Veterans District Director joined the Board. Mr. Spear asked for the Board's support on the "Valor Act" legislation recently signed by the Governor. The Act creates a new local option work-off program for veterans, similar to the work-off program currently available for seniors in Wellesley. Mr. Spear indicated there are a number of questions regarding the intended logistics of the work-off program. He has contacted 20 towns to determine what they are doing in this regard, but he has not found any good precedents. He does not know whether other communities will incorporate an income or asset test in determining whether a veteran is eligible to participate. He is prepared to work with Laura Veligor at the Council on Aging and other department heads to find work-off opportunities. He does not know how many of the individuals currently participating in the senior work-off program are veterans, or how many veterans might take advantage of this new program.

Ms. Babson noted it is often difficult to match seniors with work-off opportunities. She believes the principal difference between this program and the existing senior work-off program is that Town Meeting

could decide to adopt this local option without any income or asset test for participation. She asked whether veterans, with Mr. Spear's advocacy, could take advantage of the existing senior work-off program. If not, she thought it would be helpful to know why not before making a decision on whether to adopt this program.

The Board agreed that waiting a year to act on this might be appropriate, unless Mr. Spear is able to provide more definitive information in the coming weeks.

#### **4. Wellesley Inn Property Redevelopment**

Peter Tam and Jordan Warshaw, representing HRV Development LLC joined the Board. Mr. Warshaw briefed the board on the Wellesley Inn project. It has been six years since the Inn was torn down. Six to nine months ago he received a call from an individual who suggested he look at how the project could be redesigned to work in today's economic climate. He has structured a deal with the current landowner to absorb some of the cost basis of the land. He retained residential architects from Childs Bertman Tseckares (CBT) to reengineer the design in order to reduce the cost of the units. They have changed the planned construction methods. Working within the permitted massing, they are proposing to increase the number of market rate units from 19 to 25, and to make the units smaller, i.e., an average of 1,900 sq. ft.

The previously agreed \$250,000 payment to the Town's parking fund remains. The previously agreed plan to construct six units of affordable housing (2 on-site, 2 at Boulevard Road and 2 at another site to be identified) is not viable. Following discussions with Town staff and representatives of the Housing Development Corporation, they are now proposing to construct five units of affordable housing on-site. While they will be in a separate structure on-site, Mr. Warshaw is committed to ensuring they appear compatible with the rest of the project.

Mr. Tam noted that the massing remains the same, but the density is increased. He discussed the tension between the merits of constructing the affordable units on site vs. the minimum lot area requirements including in the Town's Zoning Bylaws. He reviewed the existing lot area requirements in the various zoning districts. He and Mr. Warshaw have previously met with the Planning Board to get their feedback on the proposed zoning changes. They are also seeking the Selectmen's support for these changes. The changes would need to be made before Mr. Warshaw proceeds with the re-permitting of the project. One change would rezone the portion of the property currently in the Educational District to the Wellesley Square Commercial District. Absent a re-use of the existing cottage, housing would not be allowed in the Educational District. This change might also be made to 40 Grove Street.

The other change would be to modify the minimum lot area requirement in the Wellesley Square Commercial District (currently 2,500 sq. ft. per dwelling unit) to allow more flexibility. Specifically, they are proposing to allow a minimum lot area requirement of 1,800 sq. ft. subject to issuance of a special permit by the Planning Board. The issuance of the special permit would be contingent on certain objective conditions being met, e.g., minimum parking, minimum open space and construction of all affordable units on-site.

Mr. Warshaw briefly reviewed the revised architecture of the project.

Mr. McCauley commended Mr. Warshaw for taking the project on, and expressed appreciation for the commitment to affordable housing and the parking fund. He questioned how the revised lot area requirement might impact the entire Wellesley Square Commercial District. Mr. Larsen noted that Meghan Jop, Planning Director has indicated the proposed change would create the possibility of 115 additional market rate units and 17 additional affordable units. Mr. Warshaw noted these numbers would require that all of the impacted properties in the District be redeveloped and meet the special permit requirements. Mr. Tam reiterated this change would not become "by right". Rather it would require the Planning Board's issuance of a special permit.

## **5. Mobile Food Vendor Regulations**

Chief Cunningham joined the board. Ms. Babson reviewed the origins of the draft Mobile Food Vendor Regulations and the members of the Committee that developed the draft. Mr. Larsen reviewed the key elements of the draft. Mobile Food Vendors will be licensed as Takeout Food Vendors, but will be subject to this separate set of regulations. Employees of a Mobile Food Vendor will also be required to obtain a Hawkers & Peddlers license. Ms. Babson noted that the current mobile food vendors were notified of the Board's effort to draft these regulations. She also noted the Committee requested the Board focus on the suggested requirement that licensees not operate within 200 feet of a common victualler, and on the question of whether Mobile Food Vendors should be allowed to deploy tables and seating.

Ms. Tsagaris suggested several changes. Ms. Gibbs questioned why a distinction was made in terms of the treatment of Ice Cream Trucks. Chief Cunningham explained that the Town is proceeding on a "dual track" of regulating such Trucks, while anticipating that the State will also establish their own regulations. Mr. Robinson noted the Committee has incorporated language that confirms that State regulations will ultimately "trump" Town regulations. Mr. McCauley questioned the reference to compliance with zoning requirements. Mr. Larsen noted the Committee's principal concern was that the licensing of a Mobile Food Vendor not violate the parking provisions of a Site Plan Permit or other zoning-related decision. Mr. McCauley also suggested the insurance requirement should apply to any Mobile Food Vendor regardless of whether it is operating on Town property. He also questioned whether \$1 million of coverage is sufficient and whether the Town is adequately safeguarding applicant's Social Security numbers.

The Board discussed the requirement that Mobile Food Vendors not operate within 200 feet of a common victualler. Ms. Tsagaris questioned whether the Town should limit the number of mobile food vendors deployed in one area at the same time, and whether the Board should limit proximity to a grocery store. Mr. McCauley questioned whether the regulations could allow an exception for a Mobile Food Vendor to operate within 200 feet of a common victualler with the common victualler's approval.

Ms. Babson asked whether the Board wanted to allow Mobile Food Vendors to deploy tables and seating. The consensus of the Board was that vendors should be allowed to deploy a limited amount of seating.

Mr. Robinson noted the \$1 million insurance requirement reflects the recommendation of the Town's insurer. He suggested the Town can await feedback from vendors as to their ability to meet this coverage requirement.

Ms. Babson questioned how an Ice Cream Truck Vendor could prohibit an individual from bringing alcohol into the "licensed area". Chief Cunningham noted that if a Vendor is operating on private property, the Vendor should have control over the licensed area. If on public property, then the Police have authority. The Chief suggested the relevant language remain in the draft.

Ms. Babson invited input on whether the fee for such a related license should be more than \$50, as provided under the Town Bylaw. The consensus was that the Board should seek to amend the Bylaw to allow a higher fee.

Ms. Babson closed the discussion by noting that a public hearing on the draft regulations would be scheduled.

Before Chief Cunningham left the meeting, the Board elected to discuss several matters to be included on the Warrant for the 2013 Annual Town Meeting, which are of interest to the Police Department.

Mr. Larsen introduced the two draft Articles pertaining to public consumption of marijuana and marijuana dispensaries. Chief Cunningham noted the Police Department is seeing more instances of public

consumption and it is difficult for the Police to enforce the \$100 fine for such consumption. A number of communities have implemented a ban on public consumption and the Attorney General has approved related bylaw language. In his opinion, the Chief believes it would be a mistake to completely zone dispensaries out of the Town. Such a complete ban would likely be subject to a legal challenge and might incite individuals to cultivate marijuana in Wellesley. He also believes it is important to bring the Health Department into the discussion of this issue. Mr. Larsen noted that Lenny Izzo, Health Department Director will attend the next meeting of the group working on this issue.

In response to a question from Ms. Searle, Chief Cunningham described the timetable for the expected regulations to be promulgated by the State Department of Health. He is not sure the Department of Health will meet this deadline. He summarized some of key provisions of the recent State referendum.

Mr. Robinson noted there are 3 potential means for regulating marijuana; through zoning, police regulations or via Health Department regulations. The draft warrant article encompasses all of these possibilities. The Board agreed to discuss this matter further on January 2<sup>nd</sup>, following engagement with the Health Department. The preliminary consensus of the Board is to move forward with the prohibition against public consumption and to at least place the issue of marijuana dispensaries on the warrant.

Mr. Larsen also noted the draft warrant for the Annual Town Meeting will include an article concerning special legislation to avoid the need to reappoint certain police officers annually. Also, the Rockland Street Bridge, which was scheduled to be opened today, will not open until National Grid completes some “last minute” work they have identified. Chief Cunningham believes the bridge will not be reopened until the end of the first week of January, despite the Town’s concerted efforts to work around National Grid’s requirements.

## **6. Board of Selectmen FY14 Operating Budget**

Rachel Lopes joined the Board. Mr. Larsen briefly noted the changes made to the Selectmen’s FY14 operating budget request. He also reviewed the year-over-year trend in the various elements of the Selectmen’s total budget, including shared costs, debt service, cash capital, etc.

Mr. McCauley questioned the reduction in the provision for abatements. Ms. Babson noted that Sheryl Strother had forwarded a note that explained this reduction.

Mr. Connolly reviewed the Traffic & Parking budget. He explained the concept of “receipts reserved for appropriation and reviewed the anticipated revenues and expenses for FY14. Mr. Connolly answered questions from the Board.

Mr. Larsen noted the Town received 3 responses to the RFP for On-Call Traffic Engineer. The Traffic Committee (Larsen, Connolly, Pakstis, Hickey, Chief Cunningham and Lt. Pilecki) is evaluating the responses to the RFP and will have a recommendation for the Board shortly.

**The Board voted (5-0) to approve the Board of Selectmen’s FY14 Operating Budget as summarized in the memorandum from Rachel Lopes dated December 14, 2012.**

## **7. Wellesley Hills Branch Library – Chimney Repair**

Ms. Gibbs asked Mr. Larsen to summarize the status of planning for the long-term maintenance of the Branch Library buildings. Mr. Larsen noted the Facilities Maintenance Department’s five year capital plan includes approximately \$850,000 of maintenance projects related to the Hills Branch Library to be completed in the next 5-10 years. He summarized the scope and cost of this work, largely as derived from the assessment of the Hills Branch performed by Weston & Sampson. as derived. Mr. Larsen and Ms. Gibbs noted initial discussions have been held with the

Mr. Larsen noted the Board has historically had discussions with the Library Trustees regarding their contributing to the cost of Branch maintenance, but those discussions have never been completed. The proceeds from the lease of the Hills Branch Library to the Wellesley Children's Community Center accumulate in a revolving fund and the balance in that fund, as supplemented by additional funds from the Trustees was recently used to fund the replacement of the Hills Branch boiler. The estimated cost of the replacement of the Hills Branch roof has not been discussed with the Trustees, but is indicative of the higher cost of maintenance than discussed at the time the Branches were reopened.

Mr. Larsen believes the unfavorable vote by Town residents on the Proposition 2½ override ballot question concerning the funding of the branches continues to raise the question of whether the Town (i.e., taxpayers) should fund the long-term maintenance costs associated with the Branches. In addition to an appropriation to fund the repair of the Hills Branch chimney, perhaps it would be appropriate to also ask Town Meeting to vote on a resolution on this additional question.

In response to questions from Ms. Searle, Ms. Gibbs noted there have not been further discussions with the Trustees regarding the funding of Branch maintenance, but there have been discussions regarding the potential use of CPA funds to fund some portion of the cost of repairing the Hills Branch chimney. Following further discussion, the Board agreed to move forward in all facets of the related discussions with the Trustees, CPC, Historical Commission and PBC regarding the chimney repair and the long-term maintenance funding plan. It was also agreed that Ms. Gibbs should liaise with the Trustees regarding the drafting of a Town Meeting warrant article(s).

Mr. Robinson departed the meeting.

## **8. 2013 Annual Town Meeting Warrant – Potential Articles**

For purposes of the 2013 Annual Town Meeting, the Board agreed to defer action on the following matters:

- Request for authorization to seek special legislation to index the income limits for participation in the Town's senior tax deferral program.
- Request for authorization to seek special legislation to authorize the retail sale of wine & malt beverages for consumption off premises.
- Increase in the base used to determine cost-of-living-adjustments to retiree pensions, subject to confirmation with the Retirement Board.

The Board provided feedback on a draft index of Annual Town Meeting warrant articles.

### **Projects and Other Updates**

- Tolles-Parsons Center - Ms. Tsagaris summarized the recent efforts of the Advisory Group.
- Wellesley Square Initiative – Ms. Searle noted free parking continues to be available.
- Advisory Committee Update – David Murphy queried the logistics for an upcoming Advisory Committee meeting.
- Fuller Brook Park – Ms. Babson noted the 60% design plans are being reviewed and will be submitted for permitting purposes shortly.
- 900 Worcester Street – Mr. McCauley noted the date for an upcoming meeting of the 900 Worcester Committee. He also noted the Pool Subcommittee is tabulating the results of their survey.
- Regional Matters – Ms. Gibbs reported that she and Frank DeMasi recently attended the Metrowest Fall Policy Collaborative.
- Sustainability – The Committee is scheduled to meet with Representative Peisch on January 7<sup>th</sup> to discuss RGGI (Regional Greenhouse Gas Emissions) legislation.
- School Facilities Task Force – Ms. Searle reported on the results of a detail planning session on the cost of proposed renovation work at the Schofield and Fiske Schools.

**Old Business/New Business**

None.

At 10:30 the meeting was adjourned.