

# Board of Selectmen Minutes 08/15/2016

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Board of Selectmen	August 15, 2016
Regular Session	Selectmen's hearing room, Town Hall

Present:	Philip Crawford, Chairman
	Christopher Barrett, Selectman
	Richard Dalton, Selectman

Chairman Crawford called the meeting to order at 7:00 p.m. Chairman Crawford announced that the meeting was being recorded for transmission by cable television. He led those assembled in the Pledge of Allegiance.

## Joint meeting with Board of Library Trustees

Chairman Crawford called the joint meeting to order and recognized the presence of the members of the Board of Library Trustees (Robert Calamari, Russell Boekenkroegeer and Faith Honer Coakley; Trustee Richard Mazzola was not present).

On the motion of Mr. Calamari, duly seconded by Selectman Dalton, the members of the joint meeting voted unanimously to elect Chairman Crawford as chairman of the joint meeting.

Chairman Crawford announced the purpose of the joint meeting was to elect a candidate to succeed E. Seavey Bowdoin, who died earlier this year. Mr. Calamari said that the Board of Library Trustees is recommending the appointment of Dr. Janine Rodrigues Saldanha, and nominated her for the vacant position.

Chairman Crawford noted that Dr. Rodrigues-Saldanha is past president of the Friends of the Lynnfield Public Library and serves on that organization's board. He said she has done tremendous work on behalf of the library and the Town. Selectman Barrett said there could not be a finer candidate. Selectman Dalton thanked Dr. Rodrigues-Saldanha and her husband for all they have done for the Town and thanked her for coming forward. Ms. Coakley said that the trustees welcome Dr. Rodrigues-Saldanha and that she is joining that board at a very important time. Dr. Rodrigues-Saldanha thanked the trustees for nominating her and said that Mr. Bowdoin was an icon.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the joint meeting unanimously voted to appoint Dr. Rodrigues-Saldanha to a term on the Board of Library Trustees that will expire on April 10, 2017.

## Request to use common for farmers' market

Resident Tori Kendrew of Kitchen & Kraft appeared before the Board to discuss her proposal to run a farmers' market on the common on several dates next summer. Ms. Kendrew said she believes it will be a great community event and help support local farmers. She said she expects 12-15 vendors will participate and that it would draw about 75 people. She has run several of these events in other locations and has worked with local farmers. She would also invite Whole Foods, for which she previously worked in the marketing department, and other local non-food businesses which could promote their businesses and social media presence. Table spaces would be rented to vendors to cover permitting and advertising costs.

Selectman Dalton said his chief concern is that use of the common has traditionally been reserved for charitable or civic events, and not used by for-profit entities. He said that large events require police and Department of Public Works (DPW) details and blocking off streets. Ms. Kendrew said she was not requesting that any streets be block off. Selectman Barrett said he would like to hear about experiences from communities similar to Lynnfield that held such events.

Chairman Crawford said that the only available parking lot nearby is at Town Hall, and due to the crossing required from that lot to the common, South Common Street is usually blocked off for large events. He said Police Chief David Breen is not in favor of this proposal due to the location. The DPW has similar concerns. Chairman Crawford said the Middle School site may be better suited for this type of event, but added that Ms. Kendrew would have to seek permission from the School Department for such use. He said he likes the idea of a farmers' market but said he is concerned about setting a precedent by allowing the use of the common for a for-profit event.

Ms. Kendrew said she would consider partnering with a local non-profit entity on the event. She said she would provide information about farmers' markets run in similar communities.

## Request for stop signs on Hart Road and Juniper Road at their intersections with Candlewood Road

Chairman Crawford said that he appreciated Gary Mendes following up on the Board's request to gather signatures from neighbors showing their support for the request that had been submitted by Mr. Mendes. He said he called several residents of the area who voiced similar safety concerns.

One resident said he did not believe the stops signs are necessary. Chief Breen said told Chairman Crawford had been no motor vehicle incidents in those locations. Selectman Barrett said he also spoke to neighbors who thought the stop signs were a great idea. He said he hoped the signs could be put in place before school opens. Selectman Dalton said that the neighborhood has spoken and it is in favor of the signs.

Chairman Crawford asked how soon the signs could be in place. Town Administrator James Boudreau said that depends on whether the DPW has signs in stock or must order them. Chairman Crawford said that the Hart Road location is a bigger issue than the Juniper location. Mr. Mendes agreed, but said Juniper Road sees speeding as well.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board unanimously voted to amend the Town's Rules and Regulations by adding to Chapter 380, Section 23 B, Traffic Regulations, Rules and Orders, the following stop sign locations: Hart Road eastbound at intersection with Candlewood Road; Hart Road westbound at intersection with Candlewood Road; Juniper Road eastbound at intersection with Candlewood Road; Juniper Road westbound at intersection with Candlewood Road.

#### **Update on flooding in the Perry Avenue area**

Edward Baud of Dale Road appeared before the Board to discuss flooding problems in his neighborhood near Reedy Meadow. He said the railroad line running through Reedy Meadow acts like a dam at the point Beaverdam Brook drains into the meadow. This problem affects approximately 25 homes on Dale Road, Perry Avenue, Wirthmore Lane and Ford Avenue. Mr. Baud is concerned that major damage to homes in that area could result in a major rainstorm accompanied by power outages due to the reliance on electric sump pumps by homeowners. He said this could also force evacuation of that neighborhood.

Mr. Baud said that the City of Lynn water department controls the water level in Reedy Meadow by use of its dam. In the past, Town officials felt that drainage issues involving the railroad bed could be addressed through the work to be done of the proposed rail trail project. He said that with support for that project uncertain, he would like to see the Town pursue other options, including formal talks with Massachusetts Bay Transportation Authority (MBTA) officials about work to widen the culvert on MBTA property. He said he is aware the MBTA wants the Town to assume any responsibility for any environmental damage found on the land in question. He asked that Town Counsel be asked if the MBTA would be liable for any flooding damage that is due to its unwillingness to address the culvert and drainage issues related to it. He also recommended asking the Essex County Mosquito Control Project to perform maintenance on the drainage in the area. Mr. Baud said he would be happy to serve on a committee put together to address these drainage issues.

Mark Driscoll of Wirthmore Lane said that he spoke to Town Engineer Charles Richter about these issues seven years ago. He said he is an environmental consultant and that the culverts are undersized and inadequate. He said dead trees in the meadow, which is a habitat for endangered species, signify rising water levels. He said beaver dams are a problem, and that state regulations make it difficult to trap the beavers. He said it is time for the Town to be proactive on this issue. Meadow Lane resident Leslie Miller said that the tree line is getting wetter and the more dead trees are now close to her property line. David Badger of Wirthmore Lane said that a drainage pipe that runs between his and another resident's yard is getting clogged with dirt and debris. He said a large rain causes his yard to flood.

Chairman Crawford said that when the fields project was being studied, the Town looked to ensure any work being done would not exacerbate flooding issues in that neighborhood near the Middle School. He said the MBTA control of the rail bed creates a difficult situation for the Town.

Mr. Richter said that the flooding in this area has been an issue since at least the late 1970s. The crux of the issue is a constriction in the water flow from the meadow that occurs in the Saugus River due to a minimal pitch. The Town has approached the state several times over this period for permission and funds to dredge the river, but concerns about possible downstream flooding in other communities stopped any progress. In 2007 an attempt was made to revive this project but it became obvious that the necessary permits could not be obtained due to these concerns. A remedial plan to address alleviating the flooding in Lynnfield was developed, including controlling beaver dams and cleaning the culverts of debris. A proposed plan would breach the railroad bed, bypassing the culvert, but the MBTA controls the land and would require the Town to indemnify it against any hazardous material discovered during excavation. Due to the likelihood that there is soil contamination on that site from the period when it was an active rail line, the Town had hoped to address the issue by obtaining insurance as part of the rail-trail project.

Chairman Crawford said that even if the rail-trail project were to move forward it would take a few years before that work could be done. Mr. Richter said he has attempted to contact the MBTA on the issue, but the MBTA will not allow work on its land without the indemnification. Board members discussed asking representatives of the MBTA to come before the Board on the issue or setting up a meeting with state and MBTA officials to explore the matter. Mr. Boudreau said the Town cannot conduct work on MBTA property without the MBTA's permission.

Selectman Barrett asked about the cost of the project. Mr. Richter said if indemnification issues are set aside, the cost of breaching would be about \$30,000, not including engineering and permitting costs. He said this would not solve the flooding issues, but would provide an additional safety factor during heavy rains. He said the remedy to the problem is the dredging of the Saugus River. He said the area in question is not only subject to flooding but also has a high water table. Selectman Dalton asked about interim solutions. Mr. Richter said the culvert is free of debris at this point and that DPW does regular maintenance and checks on it when a major storm is forecast. He said Essex County Mosquito Control was contracted to work on the area a few years ago.

Chairman Crawford said the Town will contact the MBTA and see what inroads could be made. Town Counsel Thomas Mullen said that for years, when communities sought to use its property for rail-trail projects, the MBTA has required that it be indemnified for any and all environmental hazards found on its property, which no community could afford. Legislation enacted as a result requires communities to obtain an inexpensive

insurance policy and allows them to use the MBTA property for a rail trail. Mr. Mullen suggested seeking legislation of a similar nature for this work. Board members said they would pursue this approach. Mr. Mullen will draft a warrant article for a home-rule petition for this legislation and Chairman Crawford will contact State Rep. Bradley H. Jones Jr. about this issue.

**Extended holiday hours at Market Street**

Nanci Horn, general manger for Market Street, appeared before the Board to request extended holiday hours from 7:00 a.m. to 11:00 p.m. during the period from November 25 through January 1. Ms. Horn said that this has worked well in the past and that not every store would avail itself of the extended hours. Chairman Crawford asked if anyone else wished to speak on the matter. No one did.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to approve extended holiday hours for Market Street under the terms of the development agreement from 7:00 a.m. to 11:00 p.m. during the period from November 25, 2016 through January 1, 2017.

**Request for permission to work on Town-owned land near 10 Ryan Road**

Stephen Mahoney appeared before the Board to request permission to conduct work on Town-owned land near his property at 10 Ryan Road in order to comply with an order from the Conservation Commission. Mr. Mahoney explained that he found that work he had done had extended onto Town property and he has been ordered by the Conservation Commission to restore the disturbed Town property to its previous condition. Work will include removing a portion of a wall and removal of a bocce court, all of which will be done by hand. Vegetation will also be planted. The restoration plan was drafted by Hayes Engineering of Wakefield.

Town Engineer Charles Richter said that Mr. Mahoney will have to provide a certificate of insurance to protect the Town. Mr. Mahoney said he has contracted with a company that is bonded. The work will be done once the pond has been lowered, which usually occurs in November. The Conservation Commission will oversee the compliance.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to approve the request of Stephen Mahoney to conduct work on Town property near 10 Ryan Road to comply with a Conservation Commission order, provided that he provide the bond or insurance required.

**Adoption of historical restriction, Center Farm**

Town Counsel Thomas Mullen explained that the Historical Commission has been working on a set of historical restrictions to place on the deed to the Center Farm property on Main Street in preparation for the Town to seek bids for its purchase. These restrictions will be in perpetuity if agreed to by the Town's Board of Selectmen, its Historical Commission and the Massachusetts Historical Commission.

The restrictions would require the preservation of the front façade of the property and maintenance of the grounds in a neat fashion. The land could not be subdivided and the buildings cannot be converted into condominiums. The buildings cannot be razed, demolished or allowed to deteriorate. Any new structures must be located behind the main building and cannot be visible from the street. Their height cannot be higher than the existing ridge line, and must be allowed by right under zoning. The interior can be altered. The hunting mural will be dealt with through the request for proposals on the property. The Town would be allowed to remove it.

Chairman Crawford thanked Mr. Mullen and the Historical Commission for their work in this area. He said he believes the document serves the purpose the Town wanted and that it will make it clear to anyone responding to the request for proposals what will be required of the owners. Mr. Mullen said the Historical Commission will be adding a description of the property as well as photos and other material to document the property's current condition.

Faith Honer Coakley of the Historical Commission said the commission would vote the next day to finalize the document. She said there was a mandate from the town meeting that approved the property's acquisition and from the subsequent town meeting that approved its sale that the property's façade and front yard be maintained, although the interior can be modified. She thanked Mr. Mullen for his guidance and the Board for its assistance in this matter.

Chairman Crawford asked that the Board be notified if the Historical Commission votes to modify the document in any way.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to approve the historical restriction document for the Center Farm property on Main Street and members signed the document.

**Resignation of the Director the Department of Public Works**

Mr. Boudreau said that he was informing the Board that DPW Director Andrew Lafferty has resigned his position and his last day of work will be September 9. He thanked Mr., Lafferty for his service to the Town and wished him good luck in the future. Chairman Crawford thanked him for his two years of service to the Town and wished him the best. Mr. Boudreau said that the advertisement for the position would go out this week to the Massachusetts Municipal Association website and local newspapers, and that there would be a two- to three-week response period. He said there will likely be a small gap between Mr. Lafferty's last day and the new director's first day, which will be dealt with at the time.

Several DPW employees spoke to praise Mr. Lafferty. Nicholas Goodwin, who is also a resident, said he has proven to be well respected and well liked by employees and residents. He said the decision to part ways with Mr. Lafferty was irrational. John Leonard said that he has worked for the DPW for 14 years and that in his two years here, Mr. Lafferty has made a huge difference and morale has improved. Kevin Raiche said Mr. Lafferty was fair to all employees. Richard DeGrande said that Mr. Lafferty had made a lot of improvements and that he is blamed for issues related to staffing. Chairman Crawford thanked the employees for their comments and said he appreciated their loyalty.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to accept Mr. Lafferty's resignation, effective September 9, 2016.

#### **Ruling on Three Registered Voters case**

Mr. Mullen said the Town received very welcome news as the Court of Appeals has ruled in its favor on every issue in the case of Three Registered Voters v. Town of Lynnfield, in which three residents claimed the Board had violated the Open Meeting Law in the vote to appoint a town administrator. He said this is the first ruling of the court on Open Meeting Law issues since the 2010 revision of that law. The court ruled that the Board was within its rights to hold one-on-one serial interviews with candidates and Board members, as long as the Board members did not discuss the candidates among themselves outside of a posted meeting. The court also ruled that while the posted agenda included only the topic "Update of Town Administrator Search" on the night that the Board voted to appoint a town administrator, the law was not violated since a vote to appoint was not contemplated until the discussion of the candidates during the meeting revealed that two of the Board members were in agreement on the candidate to appoint. The law requires that the agenda reflect what the chair anticipates will be discussed at the meeting. The court also found the Board did not act improperly when it failed to discuss the original complaint in open session and instead had town counsel respond. Mr. Mullen noted that the Board has since discussed any Open Meeting Law complaints and made a public vote to delegate the response to town counsel.

Selectman Barrett said this outcome is welcome news and asked for detail of the cost of these cases to the taxpayers. Selectman Dalton also noted that the court found that one of the three voters was not a resident of the Town during the period of some of the alleged violations and did not have standing.

#### **Appointment of election officer**

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to appoint Anne Valkevich as an election officer, as recommended by Town Clerk Trudy Reid.

#### **Meeting schedule**

The Board agreed to move the scheduled meeting of Monday, September 26, 2016 to Tuesday, September 27, 2016.

#### **Opening of town meeting warrant**

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to open the fall town meeting warrant for submission of articles. The warrant will be closed at the meeting of September 27 and the fall town meeting will be held on Monday, October 17, at 7:30 p.m. at the Middle School.

#### **Needham Road zoning issue update**

Chairman Crawford said that the Board of Appeals met on the appeal by the owner of the building inspector's cease-and-desist order regarding short-term rentals of a single-family home at 8 Needham Road, and that the matter was continued to the September 13 meeting of that board.

#### **Perley Burrill issue update**

Selectman Barrett recused himself from this discussion and stepped down from the Board desk and sat in the audience. Chairman Crawford said that the condition of Perley Burrill's has been a thorn in the side of the Town for ten years. He said he has been working with Global Partners, which holds a \$2 million second mortgage on the property, and Michael Marullo, who holds a third mortgage and has presented a plan to replace the service station with a residential subdivision. Global Partners could not reach an agreement with the property's owner, Little Joe Realty Trust and asked that the Town wait another month, which is another in a series of delays the Town has faced. He said the Town should consider alternative solutions, including talking the property through the tax title process, and then put the land up for sale.

Selectman Dalton agreed due to the lack of progress. He favors delegating the matter to town counsel and the Town's tax title attorney to proceed with the taking of the property for nonpayment of taxes.

On the motion of Selectman Dalton, duly seconded by Chairman Crawford, the Board voted 2-0 (Selectman Barrett having recused himself) to authorize the town treasurer to proceed with the tax title process.

Selectman Barrett rejoined the Board.

#### **Community Compact update**

Mr. Boudreau said that the Town has received two responses to requests for proposals on the \$20,000 capital facilities consulting work contract, and selected a consultant to work with the Capital Facilities Advisory Committee, who will begin work soon. He is working on the proposal for the \$5,000 fiscal transparency assistance. Selectman Dalton said that the Town can apply for Fiscal 2017 funds. Chairman Crawford said that the Board could discuss other areas of focus at its next meeting.

**Public comment period**

No members of the public wished to speak.

**Facilities use**

Craig Weldon, director of Best Buddies, Inc., appeared before the Board to discuss his organization's request to use Town streets on September 25 for a road race beginning and ending at Market Street, and traveling through the Glen meadow areas. Registration will begin at 7:00 a.m., the race will begin at 9:00 a.m. and will be completed by 10:30 a.m. The route is the same as was used by the previous road race run by the organization. Mr. Weldon said that he discussed the route and event with Police Chief David Breen and would pay for any police details the chief requires. Chairman Crawford said that he spoke with Chief Breen and found there had been no issues with last year's event. Mr. Weldon said a Best Buddies chapter has been opened at Lynnfield High School this year.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to approve the use of Town roads for the Best Buddies road race on September 25, 2016.

John H. "Jason" Kimball III of the Lynnfield Rotary Club appeared before the Board to discuss the club's proposal to use the common for a First Responders event on September 13. Mr. Kimball said the Rotary is no longer running its annual barbecue in September and said the proposed event would be held on the same day that the barbecue was held, on the second Tuesday after Labor Day. He said that the Rotary plans an event similar to those run to honor veterans on Memorial Day and Veterans Day, with a cookout to be catered by Countryside Catering, beginning at around 5:00 p.m., open to the entire community. The plan is for the Rotary to pay for this year's event and have the Town pay for the event with the Rotary assisting with organizing and fundraising. The total cost would be \$2700 to \$3300.

Chairman Crawford thanked Mr. Kimball and the Rotary for bringing this idea forward. Selectman Barrett said he is in favor of doing whatever the Town can to support its police and fire departments. Selectman Dalton said that the Town may be able to assist with funding for flags with police and fire emblems and other items this year. Mr. Boudreau said that there are not a lot of discretionary funds in the Town budget. Mr. Kimball said the Rotary will pay for this year's event. Future events could be budgeted by the Town.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to approve the use of the common by the Lynnfield Rotary for First Responders Day on September 13, 2016.

**Approval of minutes**

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to approve the minutes of the meeting of July 18, 2016 as presented.

**Proclamation for Mystic Regional Emergency Planning Committee**

Chairman Crawford read a proclamation regarding the Town's participation in the Mystic Emergency Planning Committee. The proclamation is a requirement for group members. The group provides group purchasing and other services.

On the motion of Selectman Barrett, duly seconded by Selectman Dalton, the Board voted unanimously to approve the proclamation for the Mystic Regional Emergency Planning Committee.

**In other business**

Selectman Dalton noted that the Open Meeting Law complaint filed by former Selectman Thomas Terranova Jr. in April was dismissed by the attorney general's office on July 22.

Mr. Boudreau said that a driving simulator from the Town's insurer is at the South Fire station and is being used to train police, fire and public works personnel.

**Request for executive session under Mass. General Laws Chapter 30A, Section 21 (A) (3) to discuss collective bargaining strategy for which an open discussion may adversely affect the Town's negotiating position**

Chairman Crawford announced that the Board is requested to enter executive session to discuss collective bargaining with Town employee bargaining units, a public discussion of which would adversely affect the Town's bargaining position. He said that the Board will not be returning to open session following the executive session.

On the motion, of Selectman Barrett, duly seconded by Selectman Dalton, the Board unanimously voted to enter executive session under Mass. General Laws Chapter 30A, Section 21 (A) (3) to discuss collective bargaining strategy for which an open discussion may adversely affect the Town's negotiating position. A roll call vote was taken: Selectman Barrett – aye; Selectman Dalton – aye; Chairman Crawford – aye.

The Board entered executive session at 8:50 p.m. and adjourned at 9:45 p.m.