

Board of Selectmen Minutes 01/04/2016

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Board of Selectmen	January 4, 2016
Regular Session	Selectmen's hearing room, Town Hall

Present:	Philip Crawford, Chairman
	Thomas Terranova Jr., Selectman
	Christopher Barrett, Selectman

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

Chairman Crawford offered condolences to the family of Peter Brady, a longtime resident and former Finance Committee member, who recently passed away. The Board praised his character and his service to the Town.

Request for inclusion of additional agenda item

Chairman Crawford said he received a request to place a topic on the agenda that he denied because he felt it would not be proper for the Board to take up the matter at this time. He said that on the agenda for the January 25 meeting there will be a public comment period during which the public can raise topics with the Board, upon which the Board will not engage in discussion or debate at that meeting.

Chairman Crawford said that the topic to which he referred was a proposed subdivision on Apple Hill Lane which is currently before the Planning Board and is coming before the Conservation Commission. He said he believes it is improper and unethical for the Board of Selectmen to take up a matter on which it has no jurisdiction when it is before other committees. While the Board has in the past discussed enforcement of zoning on certain matters, it is only after the matter was reviewed by the proper boards and the zoning enforcement officer.

Selectman Barrett said that he had heard from residents who expressed concern that the topic would not come before the Board. He agreed the matter is not under the Board's jurisdiction. He commended the chairman for adding the public comment item to the agenda and said that School Committee has always allowed citizens to come before it. Chairman Crawford said that the Board could choose to place an item raised during the public comment period on a future agenda.

Selectman Terranova also thanked Chairman Crawford for adding the public comment period to the agenda, and said that Chairman Crawford was responsible for having it removed from the agenda. He said he received requests from concerned citizens about the Apple Hill matter and had attended the Planning Board meeting on that topic. He said that he asked that the chairman would add this item to tonight's agenda to allow residents to come in and speak about whatever they wanted to speak about. He had asked Town Administrator James Boudreau to ask the third member of the Board whether he would support putting it on the agenda. He said this Board might not be the right committee, but the residents deserve the right to come and be heard by the Board. He said the chairman declined the request and he never heard about any response from Selectman Barrett.

Selectman Terranova said that as a result he filed an Open Meeting Law complaint against the Board today. He said that even if the matter is not properly before the Board of Selectmen, the residents should be heard and directed to the proper committee. He said nothing that was requested related to having this Board exert influence on another Board.

Selectman Terranova made a motion to place the Apple Hill Lane subdivision on the January 25 agenda. That motion failed for the lack of a second.

Chairman Crawford said residents could raise the issue during the public comment period at the meeting. He noted that the Conservation Commission will be taking up the topic at its January 19 meeting. He said that the selectmen should not be undermining other boards. He said if the matter brought before the Board by the zoning officer or the Planning Board as an enforcement issue he would have allowed it.

Selectman Barrett said he spoke with a number of residents on the issue. They were updated on how Town boards have handled the issue to date. He said they understood the jurisdictional issue after the discussion. Town counsel advised that the Board that the matter is not under the Board's jurisdiction, but that the residents would have an opportunity to discuss the issue under public comment. He said he does not want to give residents false hope that the Board can intervene or apply undue influence on others boards.

Planning Board Co-Chair John Faria said that the matter should not be heard by the Board of Selectmen at all, as it is properly before the Conservation Commission and Planning Board. He said his board has spent hours going over the matter and everything is being examined very carefully. If the developer complies with the law, he can build, and neither the Planning Board nor the Board of Selectmen can stop it. The

Conservation Commission handles wetlands issues, and its findings could have an impact on the Planning Board's deliberations. He said this is a long-term process and that the Town has two boards, the town engineers, and an engineering firm looking at the matter. He said the Planning Board will do the right thing, and will be fair, and will not be influenced by any board that has no jurisdiction over the matter.

Selectman Terranova said that Mr. Faria's comments were "spot on" but said that the point remains that the residents elected the Board of Selectmen and want to come before the Board. He said limiting it to public comment would prevent the Board to ask any questions that might shed additional light on the matter.

Mr. Faria said his preference is that the Board of Selectmen not entertain the subject at all, as he does not want the appearance of impropriety. He urged dismissal of the Open Meeting Law complaint, which he said was not good for the Town or the boards. He said the correct boards should be hearing the issues under their purview and that the Planning Board will study the matter carefully and give all parties a full hearing. He said the Planning Board could question everything the Board of Selectmen does in terms of whether it is in concert with the master plan, and the Board would not appreciate that. He said he does not think it is a good idea to muddy the water and break down the lines of jurisdiction.

Resident Patricia Campbell said that residents did not know which board to go to and how to be heard. She suggested the Town create a cable television show educating residents on how Town government works. Selectman Barrett said he agrees that people often do not understand which department or board has jurisdiction over a matter and said that in the public comment period the Board could point residents in the right direction. He said people should have an opportunity to have their concerns voiced and to get direction. Chairman Crawford said that if residents call Town Hall they are directed to the correct department or board.

Department of Public Works budget presentation

Director Andrew Lafferty brought before the Board his fiscal year 2017 budget request, which would result in a 4.77 percent increase in the operating budget.

Mr. Lafferty said that Administration would increase by 0.45 percent, which includes the correction of an incorrect calculation on last year's budget worksheet. Fuel oil is being level-funded due to lower prices.

Highway, Cemetery, Parks and Trees would increase by 3.08 percent, which includes correction of three union positions categorized as the wrong grade, and increase in overtime due to an increased number of roadwork projects, and minor increases in training, vehicles maintenance, potholes, and signs. Additional funding for road construction was passed by town meeting last year; he included the roadwork amount here but asked whether it should be moved to the capital budget. Sidewalks, snow and ice and street lights were level-funded.

Rubbish Collection and Disposal would increase by 2.76 percent. The collection contract with JRM has been renewed and there will be a two-percent price increase. The Covanta disposal agreement is also up for renewal, with a potential decrease in cost. Recycling overtime has been increased by 25 percent due to the practice of adding additional days of service in the recycling yard. Household hazardous waste has been increased to allow for a second collection day, which could be a shared expense with a neighboring community. Recycling costs have also increased for removal and disposal of items at the yard. White goods collection has been level-funded.

School Maintenance and Buses has been increased by 9.11 percent. A new maintenance/electrician position is requested, which would allow the Town to bring some electrical work in-house and reduce outside contractor costs. The position would be part of the maintenance crew, which is understaffed and is falling behind. Electrical utility has also been increased, as the line fell short by \$25,000 this fiscal year, partially due to costs associated with the new athletic fields. School busing is running short, as it has in the last six years; the proposed budget would correct this annual shortage so there would be no need to transfer additional funds into the account during the fiscal year. The budget is based on the current level of service. The busing contract expires in June and costs may increase. All other items in this section were level-funded.

Town Buildings and Maintenance would increase by 0.44 percent, which includes an increase in overtime for funds for covering vacations. Two part-time positions were consolidated into a full-time position last year.

Chairman Crawford said that roadway funding should be in the capital budget, which would allow funding to be carried over to the next fiscal year if the projects are not completed. Mr. Lafferty said this would also be beneficial for multi-year projects. He said of the \$1.1 million allotted to roadway projects this fiscal year from state Chapter 90 and Town funding, all but \$260,000 had been expended. Work on Perry Avenue and Windsor Road is in progress and will be paved with a binder. He said Chapter 90 money can be rolled over. He said a capital appropriation would allow the Town to get a jump on other communities in hiring pavers and other contractors, as operating funds are not available until July 1. Chairman Crawford congratulated the DPW for getting nine roadways done this season.

In response to other questions from Chairman Crawford, Mr. Lafferty said that the \$3 per ton savings in rubbish collection costs may help offset any disposal cost increase, but added the tonnage has been increase, and he is looking for ways to reduce the tonnage. He said that opening the recycling yard on Sundays requires paying workers 2.5 percent times their regular rate. He said that the Town saw its largest participation numbers in this year's household hazardous waste collection, and that he received a number of calls about disposal of hazardous waste this year. On the new maintenance/electrical position, Mr. Lafferty said that a small amount of electrical work is handled in-house but most goes to contractors. The maintenance custodian, while not a licensed electrician, has handled street lights and is knowledgeable. He said he believes between the electrical work and maintenance work a full-time position is justified, as the two facilities maintenance staff members are well behind on work orders. He said there has not been any reimbursement of costs from field use fees, as the field maintenance agreement has not yet been completed.

Selectman Terranova asked about those cost of busing. Mr. Lafferty said that the Town is down to five functioning buses. Selectman Terranova said that Mr. Lafferty did a great job with budget preparation and said he request was very comprehensive. He asked why fuel costs have been level-funded even though prices are down significantly. Mr. Lafferty said per-gallon cost has been reduced from \$2.67 to \$1.76 over a one-year period, and usage has been consistent. Selectman Terranova said that even with an increase in consumption there should be some reduction in the budget due to the lower rates. Mr. Lafferty said that he does not know whether rates will go down further or increase. He said he looks over a five-year period when forecasting rates. Mr. Terranova said that the Town spent \$115,000 in Fiscal Year 2015 and that the proposed budget is \$70,000 higher; he noted this amount could make up for the shortfall in the busing line. Mr. Lafferty said the basis for estimating the cost of fuel is based on the last five years per-gallon rates. Selectman Terranova said the budgeted amount should have gone down over the last year using this approach, as the rate had gone down over the last two years. Mr. Boudreau said that a five-year price review might be too long, and that a two-year average, with a factor for a possible increase, may work better. Mr. Lafferty said he would review that item.

Selectman Terranova said his concern about putting road funding in the capital budget is that it could be seen as something that could be cut back from year to year. He asked if a revolving account could be set up for road work. Mr. Lafferty said the maximum amount for a revolving account is \$50,000; Mr. Boudreau said that revolving accounts cannot be used for regular municipal appropriations. He said Norwell handled roadwork as a separate warrant article and said he would discuss the matter with the town accountant. He said whether the roadwork funds are in the operating or capital budget, the issue comes down to having the budgetary discipline to fund it adequately ever year.

In response to questions from Selectman Terranova, Mr. Lafferty said that drainage is part of some road projects, and that major drainage projects are in the capital budget. Selectman Terranova said that the hope was that flooding in the Perry Avenue area could be addressed through the rail-trail project. Mr. Boudreau said that the culvert at issue is on land owned by the MBTA, and that the Town would control that area if it leased the land from the MBTA as part of the rail-trail project. He said he will continue to press state officials to take up that drainage issue. Selectman Terranova said Maddison Lane and Canterbury Road have issues; Mr. Lafferty said that he is looking at priorities for next year's roadwork.

Selectman Terranova urged that Mr. Lafferty look into the costs of hiring outside electricians versus hiring an additional staff member who would be benefits-eligible. Selectman Terranova asked about student bus eligibility and parents paying for some busing costs. Selectman Barrett said that parents of students who do not qualify for busing under the established limits can pay for busing. He said he does not know what the School Committee is planning for next fiscal year. Mr. Lafferty said that the School Department handles busing eligibility and creates the routes.

In response to questions from Selectman Terranova, Mr. Lafferty said that the Capital Facilities Advisory Committee is working on a maintenance plan for municipal buildings. Mr. Boudreau said that a professional ergonomic stipend is part of the clerical bargaining unit contract. Mr. Lafferty said that the Town handled street lighting repairs and replacement for lantern-style lights and that the electrical light utilities handle all other street light maintenance costs. There are 532 lantern-style fixtures, and a program for repair and replacement is in place. On costs for Community Schools custodian overtime expense, Mr. Lafferty said that it is difficult to put a number on the cost of overtime incurred as a result of Community Schools programs.

Selectman Terranova asked about the possibility of placing solar panels on Town buildings. Mr. Lafferty said that he had an initial discussion with Reading Municipal Light Department (RMLD) and a third-party vendor. He said there were concerns about the availability of space due to HVAC roof units. Mr. Boudreau said RMLD is looking at it, and that if a third-party were to rent the space from the Town it would have to go out to bid. He said a consultant would probably be needed if the Town went that route.

Selectman Terranova said that some account groupings do not seem to be logical, including having landscaping costs under equipment. Mr. Lafferty said these costs all relate to field maintenance and agreed that renaming some of the accounts could provide clarity. Selectman Terranova asked about drainage issues on Longbow Circle and Ledge Road. Mr. Lafferty said they would be addressed in the capital budget, and that engineering studies would be required.

Resident Patricia Campbell asked how many roads will be paved next year. Mr. Lafferty said the list is being reviewed, and it will be announced on the Town website once it is approved. Ms. Campbell asked how many school buses run each day. Mr. Lafferty said three Town buses are used every day, two serve as backups, and one cannot pass inspection and will be removed from the fleet. Ms. Campbell said that school buses are sparsely filled. She acknowledged there was consolidation of bus stops. She asked if more buses are running than before. She also expressed concern about buses not equipped with seat belts. Mr. Lafferty said this is not required in the contract, but could be included. He said he did not know what the impact on the cost would be. The contract with the outside bus provider requires buses be no more than five years old. Mr. Boudreau said there is no law requiring that school buses be equipped with seatbelts, although the matter has been before the legislature for more than 20 years. He said it would be expensive for the Town to require that seat belts be furnished by busing contractors since few municipalities require them.

Update on Kinder Morgan gas pipeline

Chairman Crawford announced that the Town has filed with the Federal Energy Regulatory Commission (FERC) for intervenor status in the matter of the Northeast Energy Direct pipeline project. He read excerpts from the Town's filing that state the Town's concerns about safety, impact on wetland and drinking water, and intrusion on residents' properties. He said FERC has a number of questions for Kinder Morgan, which has until the end of December to respond. He said that many have to do with the proposed route in the western part of the state, and Kinder Morgan's rejection of alternate routes, and said the issue will not be coming to a conclusion in the near future. He said that the Board will keep an eye on the proceedings.

Selectman Terranova thanked Mr. Boudreau for his work on the intervenor filing. He said there is new information on the proposed project that he will be posting on his Facebook account regarding comments on the scoping process and the methodology used to develop the tax revenue analysis, comments on the draft resource reports and several other issues, including issues in Lynnfield specifically. He said that the proposed route in Lynnfield crosses through wetlands and the Town's drinking supply area.

Ms. Campbell said the intervenor filing was well done and suggested that two additional points be raised: the lack of a public hearing and that Lynnfield is one of many Massachusetts communities in which there are a number of leaks in existing natural gas infrastructure, and that fixing the leaks would lessen the need for additional capacity. She said the meeting held at Spinelli's was set up more like a health fair than a public hearing.

Mr. Boudreau said that a Kinder Morgan representative indicated at Spinelli's that company representatives would be open to attending a Board of Selectmen meeting; efforts to pin them down have been unsuccessful. Ms. Campbell said that a Marblehead state representative has filed a bill addressing the need to repair existing leaks and suggested Town officials speak to the Town's representatives in the legislature.

Mr. Boudreau said that the intervenor letter was shared with Lynnfield Center Water District, which prepared a similar letter. He also said suit has been filed with the Supreme Judicial Court against the state saying it has failed to meet requirements to reduce greenhouse gas emissions.

Union Hospital update

Chairman Crawford said that he met with the president of North Shore Medical Center (NSMC) and noted that a map he was shown that indicated the location of North Shore hospitals did not include Union Hospital. NSMC is still insisting that plans to close Union Hospital have nothing to do with money. He said the state Department of Public Health (DPH) will be holding a public hearing on the proposed closing on Thursday at Lynn City Hall and urged interested residents to attend and speak. He said NSMC has to demonstrate that it can provide the same level of services that exist now. He said the proposed expansion of NSMC facilities in Salem will be the subject of a January 12 public hearing at the Hawthorne Hotel in Salem. NSMC representatives say that Union Hospital will remain open until the expansion project in Salem is completed, but he said the exodus of doctors and nurses from Union Hospital has already begun.

Ms. Campbell said it is important that those concerned with these plans attend the hearings or write to the DPH. Chairman Crawford agreed.

Resignation from Historical Commission

The Board received a letter of resignation from Nan Hockenbury, longtime member of the Historical Commission. Board members thanked Ms. Hockenbury for her efforts as a staunch advocate of historic preservation and her role in the recent celebration of the tercentenary of the Meeting House in 2014.

Delegation of Open Meeting law complaint

On the motion of Selectman Barrett, duly seconded by Chairman Crawford, the Board voted 2-0 (Selectman Terranova abstaining) to delegate the investigation of and response to the Open Meeting law complaint filed today against the Board by Selectman Terranova to town counsel. Selectman Terranova abstained as he is the complainant.

Administrative matters and other business

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted to approve the minutes of the meeting of December 7, 2014 as presented with one minor edit suggested by Selectman Terranova.

Selectman Terranova announced that he would be attending the annual Massachusetts Municipal Association conference in January and said he could be authorized to vote on the Board's behalf in the absence of the chairman on the resolutions to come before the annual meeting. Chairman Crawford said he is also planning to attend.

Ms. Campbell asked when she could comment about the overall budget. Chairman Crawford said she could do so at the annual public hearing on the budget or during public comment period at a Board meeting. Resident Linda Gauvreau noted there was an article on Kinder Morgan that appeared in Yankee magazine. Chairman Crawford wished everyone a happy new year.

On the motion of Selectman Terranova, duly seconded by Chairman Crawford, the Board voted unanimously to adjourn at 8:46 p.m.