

SELECTMEN'S RECORD
April 11, 2016

ATTENDANCE AND CALL TO ORDER

The meeting was called to order at 7:33 p.m. in the Downey School Cafeteria at the Downey School by Chairman Michael Walsh. Also present were: Selectmen Patrick Ahearn, Selectmen Nancy Hyde, Town Administrator Michael Jaillet and Town Counsel Tom McCusker. Christine McCarthy was present to record the minutes.

M. Walsh waived the Pledge of Allegiance.

M. Walsh asked if anyone wishes to record the meeting and granted permission to WestCAT to record.

CHAIRMAN'S UPDATE

Roy London Humanitarian Award Ceremony

The Board of Selectmen invited the public to the Roy London Humanitarian Award Ceremony to be held on Thursday, April 28, 2016 at 7:00pm in the Community Room at the Library.

Local Town Election

A reminder to all residents that the local Town Election will take place on Tuesday, April 26th. Polls open at 7:00am and will close at 8:00pm.

The last day register to vote was Wednesday, April 6, 2016 for both Annual Town Election or on articles presented at the Annual Town Meeting. The Town Clerk's office held a special registration session on April 6, 2016 from 8:30 a.m. until 8:00 p.m. for those residents who are not registered voters in Westwood.

SCHEDULED ACTION

Public Information Session – East Street Bridge

Town staff recently met with MassDOT and VHB, its Design Consultants for the East Street Bridge, to review and discuss the 15% design of the replacement of the Bridge.

Town Administrator, Michael Jaillet made a presentation and introduced Peter Paravolas who was recently named Director of Transit-Oriented Development for the MBTA. Peter is also a Westwood resident and serves on many committees in Town.

(Presentation available online)

The two main issues discussed at that meeting were the width of the clearance beneath the bridge and the height of the clearance. Currently the bridge has a width to accommodate two 11 foot traffic lanes and four foot sidewalk on one side. Since the bridge crosses East Street at an angle, the approach from the East has a slight jog to the left. Since the sidewalk is elevated and encompassed in a granite curb to protect pedestrians and cyclist, motorist that

strike the granite curb are bounced across the center line either head on into oncoming traffic or the bridge abutment on the other side of the roadway.

The current vertical clearance is 10' 6" which is well below MassDOT standard minimum vertical clearance of 14' 6". Although the bridge is preceded on both sides with several warning signs as well as "Warning" painted on both sides of the bridge itself, the bridge is struck several times a year by trucks exceeding 10'6" in height but usually less than 2.5 tons.

There are several factors which when taken together make it necessary to replace this bridge:

- The accidents that result from bouncing off the granite curb are usually head on collisions, which means that combined speed of both vehicles intensifies the seriousness of the accident, and often results in personal injury.
- The accidents that result when the height of the truck exceeds the vertical clearance usually causes a sheering off or shattering of the truck bed and spilling of all contents carried within the truck.
- The biggest fear is that a pedestrian or bicyclist might be under or in the vicinity of the bridge at that very moment that a truck collides with the bridge and may be struck and seriously injured by flying debris.
- In one instance an MBTA propane fueled bus struck the bridge rupturing its fuel tank which required the evacuation of the area homes and businesses.
- Fire Department emergency equipment has to be specially sized at additional cost in order to pass under the bridge in order to respond to emergencies on the east side of the community.

Anytime an accident occurs beneath the bridge, regardless of its cause, the town's ability to respond to any other emergency situation on the east side of the bridge is impaired for several hours, not to mention the fact that a significant portion of the town's emergency equipment are tied up at the event and not available to respond elsewhere. There is no other location in town that has tied up so much of the town's public safety resources as the East Street Bridge.

MassDOT analysis of raising the track and the lowering of the roadway surface indicates that the vertical clearance can be increased by a maximum of 3 feet without requiring modification to the Islington Station or relocation of the utilities in the roadway. This addition to the clearance would allow for a safe passage of the vehicle types that seek to pass under the existing bridge and continue to deny access to tractor trailer trucks over 2.5 tons (over 13' 6" tall); meaning the current truck exclusion ban would remain in place.

MassDOT indicated that the standard vertical clearance for a bridge in a highly urbanized area on a state own roadway is between 14'6" and 16'6". Understanding that East Street is a locally owned road MassDOT has requested that the town confirm its agreement with MassDOT compromise of only increasing the vertical clearance to 13' 6" which allows the truck exclusion to remain.

The construction plan being explored by the design engineers is to move the abutments back to provide the full width of the roadway and replace and/or reroute the utilities prior to rebuilding the required roadway. A significant effort would be made so that two way traffic is maintained at all time to minimize the impact of traffic especially during the peak traffic

hours. Two tracks will be installed across the bridge, one at a time in order to maintain commuter train traffic across the bridge.

With these adjustments, 6' sidewalks as well as lanes that could accommodate bicycles will be installed under the bridge to increase pedestrian safety.

Roy Magnuson, 118 School Street, asked if there was any chance the project would not go forward and also asked that designs keep in mind stormwater drainage and water collection if the road is lowered. Peter Paravalos responded that the project was funded by the MBTA and there would be no reason for it not to go forward at this time. He added that they would continue to look further into the stormwater drains and work with the Town's Engineering Department.

Hania Khuri-Trapper, 11 Strafford Road, stated that she wanted to make sure that larger trucks were going to continue to be discouraged from going under the bridge, even with the new height. She wanted to make sure the Town knew how important the Islington Station was to the community and that it not be moved and asked if a cross walk could be installed at Strafford Road to connect to Morrison Field?

P. Paravolas and M. Jaillet both confirmed that the MBTA and Town had no plans to move the station. M. Jaillet added that the Town does have a weight restriction on the road, no trucks over 2½ tons, and that some of the smaller box trucks that hit the bridge are rental trucks.

M. Jaillet explained that the addition of a crosswalk from the CVS parking lot across East Street would actually give pedestrians a false security that crossing the road was safe. The Town looked into this and it was determined that the best route to get across to Morrison was to walk up to the crosswalk at the Community Center and Fire Station and cross appropriately there. The line of sight coming from under the bridge and the four lanes of traffic, two in each direction, was not conducive to ensure pedestrian safety.

Zaki Mukdissi, 437 East Street, expressed concern for the location of his driveway and that it was a safety concern for pulling out of his driveway. He indicated that if the road were to be lowered and the widened, he felt that this would increase traffic speeds on East Street, making it more difficult for him to back out of his driveway. M. Jaillet responded that the Town could look into working with Mr. Muskdissi about relocating his driveway for safety concerns. Mr. Muskdissi also asked if there would be any takings in for the proposed new sidewalk under the bridge? P. Paravalos responded that the proposed sidewalk was in the right of way, so no takings are anticipated.

M. Jaillet informed the attendees that all these concerns were good comments that should also be made at the 30% design phase, at which time the MBTA will hold a required public hearing.

Michael Skehan, 390 East Street, asked for clarification on the truck exclusions and if speed could be monitored better? M. Jaillet responded that although the height of the bridge would be increase, the truck exclusion of 2½ tons would remain in place. Therefore, trucks like tractor trailers would still not be allowed on East Street, as they are not today. He also added the Town would look further into speed on East Street.

William Delay, 148 School Street, asked if there could be dual axle vehicle restrictions? M. Jaillet responded the Town will look at the restrictions further.

Paul Kelly, 107 Willard Circle, wanted assurance that flooding be carefully monitored and drainage be appropriately designed.

P. Paravalos added that the bridge itself was over 100 years old and that was actually structurally in good condition. The MBTA decided to move this bridge up on the replacement schedule due to the safety concerns for not only trucks hitting it, but for the pedestrian walkway underneath and surrounding neighborhood in the event the area needs to be evacuated again.

John Schwarz, MBTA Director of Bridge and Tunnel Projects, reported that the MBTA does in depth inspections of the bridges every 4 years, with regular inspection annually which grades the bridges. The MBTA then takes those bridges and prioritizes them. The East Street Bridge was not originally scheduled to be replaced so soon, but the pedestrian public safety has prioritized the project to be funded sooner.

Enkelejda Klosi, 31 Beacon Street, asked if a sidewalk could be installed along the tracks connecting the station to the industrial park behind the Everett Street bridge? P. Paravalos adamantly responded no, because of safety concerns the MBTA would never allow pedestrians and trains so close together at the same level.

Kate Wynne, 10 Cedar Hill Drive, asked if there were similar projects with success that the MBTA could share with the Town? J. Schwarz and P. Paravalos responded that there is a project at Norwood Central that will be replacing the bridge, Dorchester, and Fairmont are all having bridges replaced.

Michael Kraft, 30 Coach Lane, suggested a hanging sign that trucks hit before they hit the bridge, asked for blinking warning signs, and if jersey barriers could be installed under the bridge to further protect the pedestrians on the sidewalk. P. Paravalos responded he didn't think there would be enough room for jersey barriers, but that the MBTA could look into something and see if a design could be prepared.

Joe Previtera, 16 Dean Street, repeated the importance of the stormwater drainage and asked that the MBTA work with the DPW and Engineering to ensure the proper drainage improvements are made.

Alisa Shapiro, 55 Lyons Drive, asked if this was going to cost the Town anything? J. Schwarz and P. Paravalos responded no, that it was being funded completely by the MBTA at an estimated cost of about \$12 million.

Deborah Gallagher, 25 Ash Street, commented that it was not the bridge that is the problem; it is the drivers of the trucks and the cars that are the problem, not paying attention and often on their phones.

Christina Tsolias, 375R East Street, asked why the MBTA doesn't just widen the roadway under the bridge without raising it and making commercial truck exclusion on East Street? P. Paravalos and M. Jaillet replied that these were good questions to bring to the MBTA 30% design public hearing. J. Schwarz said he wasn't sure exactly when the hearing would be, but it would probably be scheduled for late summer, early fall time.

John Rogers, 35 Wentworth Street, added that the Town should continue to monitor speed and traffic calming on East Street.

Public Hearing – Life Time Fitness Bistro – On-Premise Wine & Malt Beverage License

Nora Loughnane, Community and Economic Development Director, Janice Barba, Licensing Coordinator and Karen Sameo, Special Counsel presented an application from Life Time Fitness Bistro for an On-Premise Wine & Malt Beverage license to be served poolside.

J. Barba reported that on April 1, 2016, the Alcohol Review Committee unanimously voted opposed to recommending the Board consider this application. N. Loughnane explained that there were many reasons for this recommendation, but specifically:

The poolside Bistro serving, seating and consumption area are not separated from the main pool deck with fencing, contrary to the information provided in the unsigned, April 1st memo to “Whom it May Concern”. Town staff has indicated various options for fencing off a discrete area to segregate alcoholic beverage service from the entire pool deck.

- Previous suggestions by Town Staff to Life Time management to apply for full facility licensing with LTF Club Operations Company, Inc. as the Common Victualler’s and alcohol license holder were ignored, yet it has been brought to the Committee’s attention that events have been held on the premises where alcohol was served without proper license. (Champagne and Strawberries after yoga classes, in which a fee was charged; Bikes & Brews - full sized Castle Island beer and pizza was served, no fee charged). Special events require either a caterer with a 12c license or a one-day license issued by the Board of Selectmen.
 - N. Loughnane added that these events are also not licensed or permitted by the Board of Health without proper permits.
- Previous suggestions by the Town Staff for Life Time to amend its Bistro alcohol license application to include a discrete, fenced-in service area and/or to provide pool deck wait service and monitoring by staff have been ignored.
- Town Staff cautioned Life Time Fitness to prevent any violating events which could have a negative effect on the license application process.
- The Town Staff has concerns about the sufficiency of Life Time Fitness’ training and protocol for lifeguards to ensure the safety of the adults and children swimming at the outdoor pool absent the consumption of alcoholic beverages on the pool deck and concerns that the unmonitored service of alcoholic beverages in this environment could further compromise the safety of those individuals.
- There has been no on-site manager of the facility since December 2015. Recent dealings with the management suggest that the establishment is being operated remotely from corporate headquarters in Minnesota. Phone calls have gone unreturned and questions unanswered.

- Advice related to public safety, operations and maintenance which were offered by various Town Staff in the spirit of assistance and cooperation has been treated by Life Time Fitness personnel as unwelcomed criticism.
- Life Time Fitness, on numerous occasions, has not conformed to the Town's local rules and regulations, Life Time personnel continue to ignore Town and State policies, rules and regulations, and have instead implemented standard corporate procedures which are contrary to local requirements.

Peter Alanouf from Life Time Café/Bistro Manager and Donna Truex, LTF outside Counsel, were present at the meeting. Mr. Alanouf commented that they would be installing a fence around the area and that they had intended on doing that.

J. Barba stated that it was not on the submitted application plans and that the outer fence would not be sufficient.

Mr. Alanouf stated Nora Loughnane's statement that about no manager has been on site was untrue and that there were nine (9) managers on site, including a manager of the facility. N. Loughnane responded that the Town has never been informed of or met this manager and that their website even directs members to contact a manager in Georgia for questions or concerns about the facility.

Mr. Alanouf stated that there were no alcoholic beverages served at their facility, stating they were "mock-tails" which are non-alcoholic beverages. The Selectmen were provided with photos of alcoholic beverages and food being served at the facility.

P. Ahearn asked if Life Time had a preference, would it like the Board to deny the license or continue the public hearing so it could address all of the major concerns raised by Town staff including addressing the inappropriate communication with staff? Counsel for Life Time, Donna Truex responded yes.

N. Hyde asked for clarification on the area being requested. Mr. Alanouf showed N. Hyde the plan, which is of the outdoor pool area, including the bistro. N. Hyde expressed her concerns and that even if Life Time were to fence off the bistro area, she wasn't sure if she would still be comfortable issuing an alcoholic license to Life Time.

P. Ahearn asked Life Time to come back to the Board to discuss the response to the issues raised by Town staff.

P. Ahearn moved to continue the hearing until Monday, April 25, 2016 for 7:30pm in the Selectmen's Meeting Room at Town Hall. N. Hyde Seconded. Unanimous Vote: 3-0

Continued Public Hearing - Proposed Amendments to the Rules & Regulations Governing Alcoholic Beverages

M. Jaillet recused himself and left the room.

At the Board of Selectmen meeting on March 14, 2016, the Board held a public hearing in which it was asked to consider an amendment to Section III, Special Additional Rules for Section 12 Licenses to allow a change to the current industry standard serving sized of alcoholic beverages based on a request from Not Your Average Joe's to serve 20oz beers, as it

does in other locations throughout the Commonwealth. The Town of Westwood currently allows for a maximum 16-ounce serving size.

The Alcohol Review Committee (ARC) met on April 1, 2016 and voted to support an amendment to the Rules and Regulations that would give the Board discretion to consider such a request by adding the words "except as expressly permitted by the Board of Selectmen. A review of area cities and towns that have Not Your Average Joe's restaurants allow 20 ounce containers in their Rules and Regulations. ARC cited that it was comfortable with the Selectmen taking the requests on a case by case basis and rendering a decision.

Section III, SPECIAL ADDITIONAL RULES FOR SECTION 12 LICENSES

I. Additional Operating Requirements for Section 12 Licenses, #4 - *No alcoholic beverages, with the exception of wine, shall be served in any container, the capacity of which is in excess of sixteen (16), except as expressly permitted by the Board of Selectmen.*

Michael Belley was asked to attend on behalf of Not Your Average Joe's to explain its request to the Alcohol Review Committee. Mr. Belley, Manager on Record at Not Your Average Joe's Restaurant, explained that this was for customer preference, offering both a 14oz or 20oz draft beer or a pitcher of sangria (equivalent to 2.5 glasses) to be served to customers. Robert Gotti, Chief Marketing Officer added that this is the standard drink menu for Not Your Average Joe's in all of its other locations in Massachusetts where they have not had any major issues.

Chief Silva reported he was ok with the proposed language and that it would not affect enforcement of the overserving as long as employees were properly trained.

N. Hyde moved to approve the amendments to the Rules & Regulations Governing Alcoholic Beverages, Section III, SPECIAL ADDITIONAL RULES FOR SECTION 12 LICENSE, by adding the language "except as expressly permitted by the Board of Selectmen" which would allow all Section 12 establishments to come before the Board of Selectmen with a special request to increase its serving sizes to over 16 fluid ounces per serving. P. Ahearn Seconded. Unanimous Vote: 3-0

N. Hyde moved to approve the request from Not Your Average Joe's under its conditions of its Section 12 All Alcohol License to increase its serving size up to 20oz of draft beer and sangria. P. Ahearn Seconded. Unanimous Vote: 3-0

M. Jaillet returned to the meeting.

Amendments to Taxi Rules and Regulations

In 2014, the Board of Selectmen approved rules and regulations governing the applications and issuance of taxi companies within the Town of Westwood. These licensed have worked to address a growing issue down at the University Avenue Train Station where drivers were getting into fights about who had more of a right to be in the queue line.

Since these regulations have been implemented, the Board of Selectmen has issued and renewed 12 companies, totaling 21 vehicles to operate within the Town of Westwood. The companies all go through background and vehicles inspections by the Police Department.

After review of the language, the Town is suggesting the attached edits. The following are major points of what the edits consist of:

- Removing the reference to "Massachusetts Registry of Motor Vehicles" being a requirement for the issuance of a driver's hackney license. The Police Department has the ability to review driving records from other states and therefore, this limits the driver's ability to apply if they live in a different state, such as Rhode Island or New Hampshire, if they are a good standing citizen. Therefore, the Police Department believes a driver with a valid driver license and good driving record is acceptable.
- Making consistent the difference between a taxi vehicle and a Public Automobile or Limousine
- Change the language to allow the Chief of Police to suspend or revoke a driver's hackney license, but that the Chief of Police can only suspend a taxi company license. If the Chief recommends that a company license be revoked, it must be brought to the Board of Selectmen for a hearing and action.
- Provide for the appeal of the suspension or revocation of a driver's hackney license to be made to the Town Administrator
- Adding violations and penalties as an Appendix to the Rules and Regulations.
- Cross referencing the Town's Bylaws to be consistent with the Rules and Regulations.

P. Ahearn asked that the companies be properly notified of the changes.

P. Ahearn moved to approve the amendments to the Taxi Rules and Regulations. N. Hyde Seconded. Unanimous Vote: 3-0

Snow and Ice Account

The Department of Public Works has responded to fifteen snow & ice events this winter. Four out of the fifteen events required additional contractor support for snow plowing and removal. All events, along with materials, maintenance, and miscellaneous expenses have totaled approximately \$551,420.00. This currently puts the snow and Ice budget in a deficit of \$76,420.93, after the allotted \$225,000 voted at the last meeting. The DPW is asking that the Board approve the Department to deficit spend \$125,000 in order to cover the costs and miscellaneous expenses from the last storm.

P. Ahearn moved to authorize the DPW Director to deficit spend from the Snow and Ice Account up to \$125,000 according to M.G.L. Chapter 44, Section 31D to cover the current deficit and miscellaneous expenses from the last storm. N. Hyde Seconded. Unanimous Vote: 3-0

Domestic Violence Abuse Policy

The Town of Westwood is committed to the health and safety of its employees and their families. An employee, who is a victim of domestic violence or abusive behavior, or whose

immediate family member is such a victim, is encouraged to contact the Human Resources Director in confidence about the situation.

An Act Relative to Domestic Violence entitles employees of Massachusetts employers (public and private) who employ 50 or more employees in the state, with up to fifteen (15) days of leave from work in any twelve (12) month period if an employee or family member of an employee is a victim of domestic violence or abuse. The employee must use accrued sick and/or vacation time for this purpose. If all accrued paid time off has been exhausted, the employee may take unpaid leave. The Town of Westwood defines a twelve-month period as a rolling twelve-month period, beginning on the date an employee commences leave. This policy advises employees of their rights in accordance with state law.

The policy was circulated to all unions and department heads for comment and review. The Personnel Board held a public hearing on March 24, 2016, at which time it voted to approve and recommend adoption by the Board of Selectmen. Joan Courtney Murray, Human Resources Director, will serve as the Municipal point of contact for employees and Emily Parks, Assistant Superintendent, will serve as the School's point of contact. The Policy has been forwarded to the School Committee for its adoption as well.

P. Ahearn moved to adopt the Domestic Violence Leave Policy effective April 11, 2016 and to include it in the Town of Westwood's Personnel Policies. N. Hyde Seconded. Unanimous Vote: 3-0

Review and Sign Annual Town Meeting Warrant

The Annual Town Election and the Annual Town Meeting has to be posted no later than April 25th (7 days prior to Annual Town Meeting) adhering M.G.L. Chapter 39, Section 10. The warrant will be posted in all four precincts throughout town in order for registered voters to view it.

The Board of Selectmen were asked to remove the final miscellaneous article from the warrant.

P. Ahearn moved to remove the one (1) miscellaneous article from consideration at the 2016 Annual Town Meeting Warrant. N. Hyde Seconded. Unanimous Vote: 3-0

P. Ahearn moved to sign the 2016 Annual Town Meeting Warrant and for the warrant to be posted no later than April 25th adhering to M.G.L. Chapter 39, Section 10 and in all four precincts throughout Town in order for registered voters to view it. N. Hyde Seconded. Unanimous Vote: 3-0

Regular Minutes

March 28, 2016

P. Ahearn moved to approve the March 28, 2016 Regular Minutes as written. N. Hyde Seconded. Unanimous Vote: 3-0

Right of First Refusal

Dan Bailey, Special Counsel, As part of the land swap with The Girl Scouts of Eastern Massachusetts (GSEM), GSEM agreed to give the town a right of first refusal on 790 Gay

Street (the new Girl Scout house location). Dan Bailey, Mike Jaillet and Nora Loughnane have been negotiating the ROFR with GSEM.

The key issues are:

1. Amount of time that the Town has to respond to notice of an offer to purchase.
2. Amount of time that Town has to actually purchase the land following notice to GSEM.
3. Term.
4. Permissible Sale Price if Town Fails to Exercise ROFR.
5. ROFR Subordinate to Mortgages.

The Board asked Dan Bailey to continue to work on the agreement and report back to the Board at its next meeting with final language for it to approve.

OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

M. Walsh asked if there was any other business that may properly come before the board?

Paul Kelly, 107 Willard Circle, asked that the Board consider removing the "Right on Red" sign at the corner of East Street and Washington Street due to the construction of the Fire Station. Mr. Kelly has witnessed that since the sidewalk has been closed, that crosswalk is very dangerous to pedestrians waiting to cross from the Fire Station to the Islington Community Center or Branch Library. Mr. Kelly also requested that a new sign be installed "No Turn on Red." M. Jaillet confirmed that the sign will be removed and a "No Turn on Red" will be ordered and installed.

Jim Giurleo, 737 Gay Street asked that the Board consider adding new School Zone signs near Hanlon School citing the minor bus accident this morning. He also asked that the Town install a "No Loitering" as well as putting the speed radar back out to help with speed on Gay Street. Chief Silva responded he will take care of the speed radar sign.

PUBLIC AND PRESS

M. Walsh asked if there were any questions from the public or press?

P. Ahearn moved to enter into Executive Session to discuss one issue related to collective bargaining of which would have a detrimental effect on the position of the governing body if discussion were in open session. The Board will not be returning to open session.

N. Hyde, aye. P. Ahearn, aye. M. Walsh, aye.

The meeting was adjourned at 9:48 p.m.

Initial after reviewed

A handwritten signature in cursive script, appearing to read "M. Jailet". The signature is written in black ink and is positioned above a horizontal line.

M. Jailet
Town Administrator

LIST OF DOCUMENTS

Board of Selectmen
4/11/2016 Downey School Cafeteria
Regular Meeting

SCHEDULED ACTION

- East St Bridge Resident Invite to 041116 Meeting (DOC)
- Email Statement from John Bradley (PDF)
- Susanna Federico - East Street Bridge (PDF)
- FINAL East Street Bridge 041116 -Town Administrator Presentation (PPT)
- Virginia Lester Comments on East St. Bridge.docx (PDF)
- Board of Selectmen Public Hearing Lifetime Fitness April 11, 2016.pdf (PDF)
- Board of Selectmen March 14, 2016 PUBLIC HEARING Section 12.pdf (PDF)

NEW BUSINESS

- Taxi Regs Revisions 2016 Revisions REDLINE (PDF)

OLD BUSINESS

- Domestic Violence Leave Policy_FINAL.docx (PDF)
- 2016 ATM VOTING List 032816 (DOC)
- FINAL 2016 Annual Town Meeting Warrant (DOC)