Docket

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COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT

NORFOLK, ss

C.A NO.

20 0476

In re:

AUTHORITY OF THE TOWN OF TO ACT UPON LIMITED PORTIONS OF ITS 2020 ANNUAL TOWN MEETING WARRANT WITH LESS THAN THE QUORUM PRESCRIBED BY THE TOWN'S BYLAWS

PRELIMINARY INJUNCTION

Upon review of the Verified Complaint, the Court finds that (1) an actual controversy has arisen regarding the Town of Westwood's authority to conduct its 2020 Annual Town Meeting in light of the COVID-19 pandemic; and (2) immediate injunctive relief is necessary in order to prevent irreparable harm, including disruption and/or halting of local governmental operations and functions, and waste of municipal resources and, further, that a hearing with notice is unwarranted in light of the circumstances and that such hearing would foster to the irreparable harm sought to be prevented by this Order. Because the Town is only seeking limited relief to conduct business on the few, vital Town Meeting Warrant Articles critically necessary to allow Town government to function; because the Town is only seeking relief from the quorum requirement and not to limit or otherwise prevent any interested member of the public from attending; and because the Town will move to defer any nonemergency Town Meeting matters to a Fall Town Meeting or the next Annual Town Meeting or to a Special Town Meeting at a later date, any potential harm to the public is mitigated. Furthermore, there is little harm, if any, to the democratic process because with or without the relief sought by the Town there is no limitation on the public's ability to attend and participate.

Based upon the above, the Court therefore directs that an order of preliminary injunction be entered as follows:

1. Notwithstanding, the provisions of Section 138-12 of the Town of Westwood's General Bylaws prescribing the number of registered voted necessary to constitute a quorum at the Town's 2020 Annual Town Meeting to be 175, the quorum shall be reduced to 44 (25%) for the June 8, 2020 Annual Town Meeting, and only for the June 8, 2020 Annual Town Meeting, as it may be continued from day to day until dissolved, subject to the terms and conditions of this order. Notwithstanding, the 2020 Annual Town Meeting shall otherwise be held and conducted in accordance with all applicable laws, bylaws and requirements of the Commonwealth and the Town of Westwood.

2. Only the following thirteen (13) out of the twenty-two (22) 2020 Annual Town Meeting Warrant Articles may be taken up and acted upon with the reduced quorum requirement set forth in paragraph 1:

Article 1 Supplemental Appropriation FY20

Article 2 Supplemental Appropriation FY 20

Article 3 FY 21 Operating Budget

Article 4 Appropriation ($1,304,400) Municipal Capital Improvements

Article 5 Appropriation ($1,017,000) School Capital Improvement

Article 6 Appropriation ($765,000) Sewer Capital Improvement

Article 7 Appropriation ($64,000) Additional Capital Improvements, Ambulance Equipment

Article 8 Appropriation ($1,062,500) Additional Capital Improvements Town and School Projects

Article 9 ($1,050,000) Additional Capital Improvements

Article 10 Appropriation ($325,000) Additional Capital Improvements, Equipment Borrowing Article

Article 11 Appropriation ($125,000) Stabilization Fund FY 21

Article 12 Appropriation ($1,465,000) OPEB Liability Trust Fund FY 21

Article 13 Road Improvement Bond ($4,650,000) Pavement Preservation,

Sidewalk Enhancements and Crosswalk Safety Improvements

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3. As to any other remaining articles, not identified in paragraph 2 above, the Westwood Select Board shall move to defer or postpone the same to a Fall Town Meeting or the next Annual Town Meeting or to a Special Town Meeting at a time, place and date to be selected by the Board of Selectmen in accordance with all applicable laws, bylaws and requirements of the Commonwealth and the Town of Westwood and after the COVID-19 pandemic subsides, and after the lifting of the State of Emergency.

4. Nothing in this order is intended to, nor shall it prevent, hinder, relieve or discourage any registered voter, or any other individual, from attending the Town's 2020 Annual Town Meeting and no Town officer, official, board or entity shall limit attendance or participation in any way by virtue of this order.

5. The Select Board shall provide notice posted in accordance with Chapter 138 of the Bylaws, informing voters of this order and that only the above identified articles will be taken upon at the June 8, 2020 Annual Town Meeting and that a motion will be made to defer or postpone all other articles to a Fall Town Meeting or the next Annual Town Meeting or to a Special Town Meeting at a time, place and date to be selected by the Board of Selectmen in accordance with all applicable laws, bylaws and requirements of the Commonwealth and the Town of Westwood and after the COVID-19 pandemic subsides, and after the lifting of the State of Emergency. The Select Board shall also cause the above public notice to be made by any other means reasonably and customarily available for such notices even if not required by Chapter 138 of the Bylaws, such as the Town's website and public access television channel(s).

6. This Order shall be effective immediately and shall continue in force and effect until further order of the Court.

THOMAS A. CONNORS
Associate Justice
Superior Court

Date: May 29, 2020

I ATTEST THAT THIS DOCUMENT IS A CERTIFIED PHOTOCOPY OF AN ORIGINAL ON FILE.
Assistant Clerk
5/29/2020

CERTIFICATE OF SERVICE

I, Patrick J. Ahearn, Esq. Town Counsel, The Town of Westwood, MA hereby certify that I have hand delivered a copy of the Cover Letter, a copy of the Town of Westwood Verified Complaint seeking Declaratory and Injunctive Relief, an Affidavit of Christopher Coleman, Town Administrator, a Motion for Injunctive Relief, and a Proposed Order to the Civil Clerks Office of Norfolk Superior Court, 650 High Street, Dedham, MA 02026, and Dorothy Powers Town Clerk, Town of Westwood, 580 High Street, Westwood, MA on this 18th day of May 2020.

Patrick J. Ahearn, Esq.
Town Counsel
Town of Westwood
50 Carby Street
Westwood, MA 02090
BBO #560976

I ATTEST THAT THIS DOCUMENT IS A CERTIFIED PHOTOCOPY OF AN ORIGINAL ON FILE.
Assistant Clerk 5/09/2020