

Norwell Board of Selectmen
4/28/20
Open Session – Remote meeting

TOWN OF NORWELL
2020 MAY 29 AM 10:53
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Present: Ellen Allen, Alison Demong, Jason Brown, Joe Rull, Bruce Graham, Peter Morin

Open Session

The meeting was called to order by Chair Ellen Allen at 7:32pm. She announced that all votes will be roll call votes as the meeting participants are using remote access software. The meeting was recorded and the audio file will be available on the Town website. Ms. Allen noted that this meeting will be conducted pursuant to the Executive Order dated March 12, 2020 suspending certain provisions of the Open Meeting Law, Gen. L. c. 30A §20 et seq. and 940 CMR 29.01 et seq.

Approval of Agenda

Motion; made by Bruce Graham, seconded by Jason Brown, to approve the agenda as presented. Unanimously voted by roll call vote

BOS Reports

Ms. Allen announced that Gov. Baker has extended the MA stay at home, business closure date to May 18, 2020.

Town Administrator Report

Mr. Morin reported that he asked a number of the Town Department heads to prepare a memo summarizing their work experiences and accomplishments over the past seven weeks. He will forward them to the BOS, with the hope that they find the memos compelling reading. He forwarded correspondence to the board from the Executive Office of Administration and Finance regarding \$90M of federal aid that was received by Plymouth County (who was one of the only MA applicants besides the city of Boston), which the state then requested be forwarded to them for distribution. The Plymouth County commissioners have decided not to comply, as the state has not guaranteed that the money would be spent solely for Plymouth County. Mr. Morin is concerned that this may result in a dispute that would not be in the best interest of the county and its municipalities. He has questions about the county's ability to administer the money, and is worried that this may result in litigation between the county and the state, which would interfere with the distribution of the funds.

This is the money to cover community emergency expenditures related to the COVID-19 pandemic. In the past, federal emergency funds have been distributed to municipalities by the state. If a dispute ensues, the state may seek compensation for their expenses to the county. All discussed various scenarios – from receiving some of the funding to having the money held up in the courts. The Town is caught in the middle and this would add to the problems.

Update - Fiscal Year 21 Budget, Capital and outside Articles – review and update

Ms. Allen again turned this discussion topic over to Mr. Morin, who directed the board's attention to his Money Article spreadsheet to review details of the \$510K in reduced spending. Mr. Morin added that he is not comfortable with plans at this time to present a final version of the operating budget (Article 2). After talking to both Town Counsel Bob Galvin and Town Moderator Bill Coffey, all agree that it makes sense to print the Warrant with the original budget for Article 2, and then reduce budget line items as needed at Town Meeting. The Warrant will include Article 2 as approved by the Advisory Board, with a cover letter stating that reductions will be made as dictated by state aid that will not be offset by any federal aid. If updated budget information is available from the state prior to Town Meeting, budget amendments can be made and posted to the Town website for residents to review. Mr. Morin and Finance Director Donna Mangan are

working on a 9th version of the budget, waiting for guidance from the state on the amount needed to reduce spending.

If the date for Town Meeting arrives with budget and local aid questions remaining, as a stopgap/extreme event, Mr. Morin could request permission from the Division of Local Services (DLS) to create a 1/12 budget using FY20 numbers, but spend less than that amount. The 1/12 continuing resolution is in the new relief statute put together in March. This new option voted in March for a 1/12 continuing resolution has always been available to cities as part of their budgeting process. It is now available to towns, subject to the approval of DLS. This will provide "one month at a time" budgeting if there is no other answer available. Per Mr. Morin's conversations with Senior Deputy Commissioner Sean Cronin, the Town wouldn't have any difficulty choosing this option if there is no alternative. In response to Ms. Allen's question, if no answer for state aid is available by the 6/15 Town Meeting, Mr. Morin concurred that the Article 2 budget would be continued to a later date. He added that the state is just waiting to sort out the federal aid questions about Medicaid and get beyond the surge, then will focus on their budget and local aid numbers. Six weeks is plenty of time to get that done.

Article 3 and outside money Articles

The Article 3 spreadsheet identifies money Articles for the Town. The original spending amount reviewed and approved by the Advisory Board has been reduced from \$1.9M to \$746K to include only the purchase of needed public safety, service equipment and some replacement items such as kitchen equipment for the schools. The board discussed the pros and cons and necessity of the proposed dump truck purchase. Mr. Morin noted that the Town can afford it because it has done a good job supplementing its reserves, and would enable the Highway Department to do projects in-house that previously required rental equipment. He added that the department has a regular maintenance budget to maintain its equipment.

The board discussed the other money articles as follows:

- OPEB trust fund - pend funding until the end of the budgeting process
- Chapter 90 funding – has not been addressed yet by the legislature, amount in jeopardy due to drop in gas tax collections. The Town has the ability to borrow against state aid, but Mr. Morin wouldn't recommend that
- Stabilization fund policy – the current policy was reviewed and discussed by all with options for amendments as follows:
 1. Amend the policy in the event of a declaration of an emergency; the board reserves the right to exceed the current 20% restriction.
 2. Create a 9C Reserve fund to set aside money in the event of a state 9C cut.
 3. Establish a fund called levy emergency supplemental fund to tap if needed.
 4. If revenues are less than expected, Mr. Morin could use stabilization fund money on a one time basis to create an emergency fund account in Article 2. This account could be encumbered as necessary. Or-
 5. create \$500K in Article reductions that could go into Free Cash.
 6. Reduce spending
 7. Mr. Morin noted 3 options to supplement fund available to the Town: Reserve fund, unemployment fund and the overlay. The Reserve fund transfers can be approved by the Advisory Board.

Finance Director Donna Mangan added that there are many different funding sources that can be utilized and included in the motion for Article 2 as needed.

Motion; made by Jason Brown, seconded by Bruce Graham, that the board amend the Stabilization Fund policy section B to include language amending the use of stabilization funds for extraordinary circumstances as voted by the BOS. Unanimously voted by roll call vote. Mr. Morin will draft the language for the policy.

Revisit proposed date of Town Meeting

Mr. Morin opined that, for now, the June 15th date for the Annual Town Meeting should stand. As that date gets closer, the board can make a decision to have the meeting or continue it to a date to be determined. All are in agreement with this plan.

Reduce the CPA surcharge

Ms. Demong updated the board on her conversation with CP Coalition Director Stuart Saginor with regard to projections for future revenue. If a reduction to 1.5% CPA surtax (recommended by Mr. Saginor) passed both Town Meeting and a subsequent election, the current annual CPA budget of \$1.4M would be reduced to about \$700K. This reduction wouldn't take place until FY2022. Per Mr. Saginor, no Massachusetts community has ever revoked the CPA surtax. The board discussed current CPA fund balances, noting that most of the annual current CPA revenue is usually spent or allocated for projects. All discussed presentation and placement of this Article and motion in the Warrant.

Motion; made by Jason Brown, seconded by Bruce Graham, to adopt Article language proposing a CPA surtax reduction to 1.5%. Unanimously voted by roll call vote.

The board will let Mr. Morin, Town Counsel and the Town Moderator decide how to present the two CPA Articles to reduce or abolish the surtax in the Warrant.

Choose a committee to select an architect for the highway barn project

Consultant Barbara Mello has reviewed and qualified the 5 RFP responses and per the statute will identify 3 finalists. The statute also requires the formation of a committee for oversight on this project.

Mr. Morin would like to recommend Highway Surveyor Glenn Ferguson, Police Chief Ted Ross and himself for the committee. He added that Chief Ross has valuable experience with a project of this size and scope, having been heavily involved in the new Police headquarters construction project. Mr. Ferguson will act as the OPM. These are individual appointments, not position appointments. The board endorsed Mr. Morin's recommendations.

Motion; made by Jason Brown, seconded by Bruce Graham, that the board appoint Glenn Ferguson, Ted Ross and Peter Morin to the Highway Barn renovation project committee. Unanimously voted by roll call vote.

MA legislature bill 4598

Mr. Morin summarized this bill, adoption of which could postpone the real estate and excise tax due date from May 1st to June 1st. There are two options:

1. Change the current due date
2. Waive interest and penalties

Practically speaking, if the taxes are paid by June 29th the month delay doesn't matter. The meaningful objective is to waive interest and penalties, with the intent to provide relief to the average residential taxpayer, but there are unintended consequences. The average inquiries weren't from residents, but from service escrow companies that wanted to know if the BOS had scheduled a hearing about this bill. These are large entities that already have the money to pay the taxes, so a delay or waiver would allow them to use the funds to make more revenue for themselves with no benefit to the homeowner. This could cause a liquidity issue; these companies don't need the relief and the cash flow could affect the Town. Mr. Morin noted that over the last 24 hours the Town received a \$4M payment from Core Logic, however, he is sure they would have held the payment if penalties and interest had been waived. Residents are currently paying their taxes and the Treasurer's office hasn't been overwhelmed yet by requests for relief. Money is going out, though, for such items as refunds on full day kindergarten fees (\$100K) and recreation program cancellations. Questions were asked and answered about tax payments and estimates for amounts yet to be received. Treasurer Darleen Sullivan agreed with Mr. Morin, adding that this measure doesn't help anyone who couldn't get help from Ms. Sullivan currently as most tax payments are escrowed. She reiterated her offer to work with

residents; please reach out to her office if help is needed. The board agreed that any savvy bank could take advantage of this measure if adopted by the Town. Mr. Morin recommended an announcement at an upcoming BOS meeting stating that residents should contact the Treasurer's office if they are having trouble making property tax payments. The board is in agreement and will take no action on this proposed bill this evening.

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Request for a letter to Plymouth County

Mr. Morin gave background information to the board on this request for a potential reduction in this year's assessment for the retirement fund. The Town's assessment, set last October, was for a 7-8% increase for portfolio reasons. The increase in the payment would be about \$200K, acceptable in normal times, would be an added hardship in this difficult environment. Next year will probably see another 7% increase. In Mr. Morin's conversations with other Town Administrators, many are contemplating whether or not to ask the county to revisit this issue. Norwell is probably at the low end of the assessments. There is no federal aid coming our way and the Town will be left to our own devices. It certainly wouldn't hurt to ask. Other Town Administrators are planning to send the same letter with a request to push out from 2028 to a later date. The increases over the last several years have been in the 2-4% range; this is the wrong year to require this increase. Discussion ensued about this issue, with all noting the extreme circumstances and the pros and cons of postponing the payment. Mr. Morin thanked the board for their input and added that towns will need to approach the county as a group and hear what they have to say.

Remote Participation Public Hearing Discussion

The board discussed feedback on the decision to continue public hearings to a future date. Mr. Morin voiced concerns that although changes in the law now permit remote public hearings to take place, there are limitations to remote meeting capabilities. There are conditions and circumstances that are incredibly distracting for applicants, board members and neighbors who should be heard. Remote meetings are far from perfect; there are real fundamental problems holding public hearings that are final arbitrations on remote participation platforms. Committees shouldn't put people in that position. There is also a limit to the number of remote participants. The Town has been given relief from the requirement to hold these hearings during this state of emergency and this board has chosen to adopt that policy. Mr. Morin strongly expressed his preference about this method of holding the hearings, as well as the health and safety of the Town's inspectors. As the Town Administrator, he will not put employees in danger by requiring them to participate in inspections where the appropriate precautions have not been followed. The board expressed their opinions, ranging from being in favor of conducting remote public hearings and allowing inspectors to safely conduct inspections to hopes that the state will change the remote meetings criteria.

Town Counsel Bob Galvin weighed in on this matter, noting his good and bad experiences with remote meetings. Non-controversial matters proceed routinely and remote meetings improve when participants have experience, but almost all meetings still encounter hardware and software issues. He agrees with Mr. Morin; it's harder to know the audience in a remote meeting more than an in-person meeting. One common complaint is that the only way to fully participate is in person; if there is any instance where information is not available it creates a whole separate host of issues. Face to face is better in a quasi-judicial capacity; so public hearings are better when conducted in person.

The Norwell ZBA held a remote meeting, and one agenda item has a potential appeal that will be filed in the near future by an abutter with the prospect of legal consequences. There is nothing that can't wait for another 30 days, with respect to people working on projects.

The board responded to the comments of Mr. Morin and Attorney Galvin, making the following points:

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- Mr. Brown, Mr. Graham, Ms. Demong – it is in the best interest of the Town to keep business moving safely and as normal as possible. We should be preparing for a “new normal” for the foreseeable future, recognizing the need to adapt and move forward.
 - Brian Greenberg, Planning Board member – other members of the Planning Board were not aware of many of the BOS announcements. Town Planner Ken Kirkland has been trying to move forward with agenda items that can be addressed without public hearings. The Planning Board is holding their first remote meeting tomorrow evening, so we'll see how it goes.
 - Ms. Allen- did not agree with long term remote and gave options for future meetings with partial remote participation. She would rather wait a few weeks and see what is happening with gradual reopening plans. She supports Mr. Morin's and Attorney Galvin's points of view, which deserve strong consideration.

The pros and cons of remote public hearings were discussed by all. Planning Board remote meetings could go forward to address current issues and voting matters, but public hearings could be put off for another 30 days to reassess the state of the Town. Mr. Morin added that he has been involved in town government for 35 years, and noted that there is forbearance right now, but once the state of emergency is canceled, this form of meeting won't meet the open meeting standards. He cited a recent Hingham meeting on a controversial matter where the remote meeting platform couldn't sustain all of the participants.

Per Mr. Morin, the current building inspector has made much needed reforms to the inspection process and price structure, and he is getting heavy pushback on these measures. He asked all meeting participants to put themselves in the inspector's shoes. Imagine coming in contact with non-compliant residents for more than 10 minutes and catching a lethal virus.

Mr. Greenberg offered a potential compromise on the public hearing issue; hold the hearing in two parts. Listen to the presentations, don't allow a vote at Part 1, and vote decisions at Part 2. Attorney Galvin once again reminded all that this is not forever, just 30 days. People are intimidated by the technology and are missing key points in remote meetings. With regard to remote public hearing format, Attorney Galvin said that site plan approvals or “subject to” conditions would be acceptable remote agenda items; variance matters are more likely to be controversial. He suggested leaving the decision up to the board holding the meeting – if thirty people want to speak the subject is probably controversial. Currently the appeal periods are all tolled, no one can even appeal until June 1, 2020. He agrees with Mr. Morin; the law has always been for temporary remote meetings. Mr. Brown stated that, out of respect for Mr. Morin, he is not prepared make a decision tonight. The state and Town are still in a state of emergency. The board discussed next steps and Ms. Demong will do some more research on how the surrounding towns are handling this issue.

The board will meet next on 5/13/20. The approval of minutes was postponed to the next meeting, if available.

5/13/20 meeting - public hearing plans.

Adjournment

Motion; made by Jason Brown, seconded by Bruce Graham, to adjourn at 9:25pm. Unanimously voted by roll call vote.

Ellen H. Allen

Ellen Allen, Chair