

**Norwell Select Board  
10-20-21  
Open Session Minutes**

TOWN OF NORWELL  
TOWN CLERK  
2021 NOV -4 AM 10:15

**Present:** Bruce Graham, Jason Brown, Ellen Allen, Andy Reardon, Pete Smellie, Peter Morin

The meeting was called to order by Chair Bruce Graham at 7pm.

**Approval of Agenda**

*Motion; made by Jason Brown, seconded by Pete Smellie, to approve the agenda. Unanimously voted*

**Approval of Meeting Minutes**

*Motion; made by Jason Brown, seconded by Pete Smellie, to approve the Open Session Meeting minutes for 10/6/21. Graham, Reardon and Smellie voted yes, Brown and Allen abstained as they were not present at the meeting.*

**BOS Reports and Announcements - None**

**Town Administrator - None**

**Citizen Comments**

Mike Benson, 257 High Street re: 15 High Street-proposed 40B project  
Mr. Benson discussed several of his issues with the project plans, including too many apartments for the acreage. He would like to see this proposal negotiated as an "over 55" 40B to minimize the impact on the schools by families with kids moving in. Additional issues mentioned by Mr. Benson included the current High Street speed limit and a request for the Town to put a sidewalk on the street to accommodate the additional kids from the 40B project. Mr. Graham noted that the board has very few options to impact the outcome of this project; the ZBA has a little power but not much. He suggested contacting the Chair of the Complete Streets Committee to propose the sidewalk idea.

**Committee Application:** Meaghan James – Community Housing Trust & Personnel Board  
Ms. James introduced herself to the board and gave a summary of her background and reasons for applying to a variety of Town committees. She is most interested in serving on the Personnel Board and the Capital Budget Committee.

*Motions; made by Jason Brown, seconded by Pete Smellie, to appoint Meaghan James to the Personnel Board for a term expiring on 6/30/24. Unanimously voted*

*Motions; made by Jason Brown, seconded by Pete Smellie, to appoint Meaghan James to the Capital Budget Committee for a term expiring on 6/30/24. Unanimously voted*

Committee term limits will be discussed on a future agenda.

**Town Clerk: Re-Precincting of Town streets after 2020 census**

Town Clerk Pat Anderson was present to report on the 2020 census updates to the Town's precincts and request a vote from the board on this updated precinct info. No Town streets shifted precincts at this point, but it will probably happen in the next 10 years. The Town's population was 10,506 in 2010, 11,351 in 2020.

*Motion; made by Jason Brown, seconded by Pete Smellie, that the board certify that a meeting was held on 10/20/21 when the Select Board voted to accept, as presented by the Town Clerk, the 2020 Re-Precincting Plan for the Town of Norwell. Unanimously voted.*

### **Summerfest 2022-Proposed Date and Information – Kristen Jervey**

Ms. Jervey updated the board on the plans for next year's festivities, including a map and conversations with local merchants for the event, to be held on June 11, 2022. The 2019 event plan will be used. The event is free. Traffic arrangements will be the same: the Town center part of Main Street will be closed to traffic, and attendees will be bused in from the Town Hall parking lot. Cheever Tavern will be included this year, with a plan to have food and drinks and host a band. Ms. Jervey summarized the committee's prep work and meetings with Town businesses. Police and Fire are both on board with the plan. The Select Board would like to direct the Town Administrator to review and approve the plan application. There will also be a series of other one day alcohol licenses issued in conjunction with this event. Mr. Morin requested that the board voice any questions or concerns about this plan.

*Motion; made by Jason Brown, seconded by Pete Smellie, that the Select Board authorize the Town Administrator to work with the Summerfest Committee to organize and approve this event. Unanimously voted*

Questions were asked and answered about parking logistics and the road closure information.

### **Finalize and Approve Town Administrator Annual Review**

*Motion; made by Jason Brown, seconded by Pete Smellie, to approve the 2021 Annual Review of Town Administrator Peter Morin as presented to the board in the 9/22/21 meeting minutes. Unanimously voted*

### **Discussion of Application to the CHAPA MEI program – Ellen Allen**

Ms. Allen reviewed the draft grant application to the Citizens Housing and Planning Association (CHAPA) for their Municipal Engagement Initiative (MEI) program with the board. She gave background information about this opportunity to be selected for the grant. CHAPA personnel hold seminars and work with Town residents from the ground up to raise awareness and increase acceptance of AH options for the Town. As all are aware, the Town's recent efforts to create these opportunities have failed. The grant application is due next week on 10/28/21. The CHT supports this application, as does the COA. Both committees will submit letters of support to be included with the application. This program is conducted by CHAPA at no charge to the Town and hopefully will encourage participation by the entire community to choose the right direction for this issue. The board discussed this program and asked questions.

*Motion; made by Jason Brown, seconded by Pete Smellie, to submit this grant application to CHAPA from the Select Board for the MEI program. Unanimously voted*

### **Conservation Commission (Con Com) – Wildcat property update, Con Com updates, forestry management program**

Con Com Chair Marynel Wahl, Con Com members and Conservation Agent Will Saunders were present to update the board on the commission's discussion and vote on the Wildcat property.

- If the land is offered, the commission voted to accept the Wildcat property and put it into conservation, with 6 members voting yes and one abstaining.
- A tax liability of about \$30K would have to be paid out of the Conservation fund.
- The two parcels are assessed at \$600K. If the land is sold, with additional funding a bigger, better property could be purchased.
- Questions were asked and answered about trail connections, road safety and other tax title properties with regard to the OSRP.
- Per Conservation Agent Will Saunders, this is a wildlife corridor, but not a habitat for an endangered species.
- A large portion of the land is wetland.
- Per Ms. Wahl, not much discussion took place at the Con Com meeting when the vote was taken.

- Mr. Graham proposed a plan for conservation restrictions on about 70% of the two 3 acre parcels, with a buffer of trees screening two or three AH houses with a common driveway.
- An option is to sell the land and give the proceeds to the CHT to purchase another property for AH.

#### **Other Updates:**

- Mr. Saunders reported that the Cliff Prentiss bridge has been repaired and reopened.
- The Stony Brook cottage has been removed.
- Con Com received a grant from Mass Trails to connect the Carleton property to the Main Street sidewalk and Fogg Park. Thank you to the boy scouts for their help.
- The Nancy Hemingway memorial garden will be a 2022 project, with an opening ceremony in the spring.
- Ground has been broken for the new Wompatuck parking lot/access for Norwell residents.
- The commission is working on new trail maps.

#### **Wildcat Property Discussion**

Mr. Graham reported that he requested and just received a legal opinion from Lauren Goldberg, President and Managing Partner, KP Law, on the question of this Wildcat property issue. Town Counsel Bob Galvin has not had a chance to review her opinion. The short version of her opinion is that the vote on TM Article 26 is not binding on the Select Board. Mr. Graham again summarized the land use issue and Atty. Galvin's opinion; the Select Board must vote that the land in question is no longer needed for its designated purpose, per Mass. Gen. Law, c.41, section 15A.

Many Wildcat neighborhood residents attended the meeting in person and via Zoom to again express their opinions that the Select Board does not need to vote on MGL section 15A and should vote to put the land in conservation.

Mr. Smellie asked the Chair to call for a straw poll vote:

*Motion; made by Pete Smellie, to direct Town Counsel to transfer the two Wildcat parcels to conservation.*

The motion was not seconded and was withdrawn.

Ms. Allen added that Town Counsel reminded the board that 4 municipal attorneys cited the requirement for a vote, per M.G.L., 15A.

*Motion; made by Pete Smellie, seconded by Jason Brown, to vote that the two Wildcat parcels are no longer needed for Affordable Housing.*

*Each board member opined on this issue as follows:*

Ms. Allen reviewed the property's criteria as buildable land which was identified for AH. It is not accurate or honest to say that it is no longer needed. Mr. Graham's proposal meets both conservation and AH goals.

Mr. Reardon stated that the board has a responsibility to flesh out all the options for this property before making a decision. "What is the urgency? There are no building or time constraints as nothing is happening on the land." He would like to defer this vote until all point have been addressed, which is not tonight.

Mr. Brown stated that he recognizes the compelling arguments on both sides of this issue, but this was the 2/3 vote at the 2021 Town Meeting. Although the 2004 Town Meeting vote made a different decision, times have changed. All the new houses were built after that vote. There is no precedent for the 2021 Town Meeting vote, as it was taken out of order with the second step first.

Mr. Smellie again cited the moral approach for the board to consider doing the "right thing", citing the opinions and vote of Con Com. Why wait?

Mr. Graham stated that per M.G.L section 15A, the board can't put the land into conservation until a vote determines that the Town has no further need for the land to build AH. The CHT

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voted, both before and after reorganization, to use this land for AH or sell the land and use the proceeds for AH at another site. The land is under the control of the Select Board. In response to Mr. Brown's question, Mr. Morin noted that, in his 6 years here, he doesn't know of any cases where the board voted opposite a Town Meeting vote.

Discussion ensued about the pros and cons of postponing the vote to a future meeting. Mr. Graham cited a fourth option – the board decides that they can't reach a majority vote.

Ms. Allen asked to move the question:

*Motion as reread by Mr. Smellie:*

*made by Pete Smellie, seconded by Jason Brown, to vote that the two Wildcat parcels are no longer needed for Affordable Housing.*

*By roll call vote: Ellen Allen – no, Jason Brown – yes, Andy Reardon – no, Pete Smellie – yes, Bruce Graham – no. The motion fails to carry by a 3-2 majority vote.*

Mr. Graham opened the floor to comments from meeting attendees and Zoom participants. Many of the same comments made at prior meetings were restated by Mr. Carroll, Mr. Wall, Ms. Julian and other Wildcat neighborhood residents

Ms. Allen asked Atty. Galvin to answer the following questions:

1. Is it true that the board must vote on M.G.L. section 15A? Answer – yes.
2. Is the board stuck at this point? Answer – yes, unless you have a different majority vote.
3. Was the vote at Town Meeting out of order for the process? Answer – yes. Reminder; the 5 member Board of Selectmen voted in January 2021 to support AH on this property.

Atty. Galvin made the following comments:

There is some major confusion taking place. There is a misconception that the Town Meeting vote compelled the Select Board to put this property into conservation. As Town Counsel, it is his job to "call balls and strikes" as he sees them. Mr. Carroll calls strikes differently, but he is not a municipal lawyer. A lawyer does his job without prejudice. There was authorization to move the land into conservation voted at Town Meeting, but no order compelling the board to do so. The law doesn't work that way. An argument could be made that the Article is voidable as it short circuited the Select Board vote. A popular vote is not necessarily in the best interest of the Town. For example, a politically powerful group could decide to vote to "sell the fire station", but it would still not be legal.

Atty. Galvin stated his dismay at being interrupted by meeting attendees several times during his comments, adding that he listened to everyone with courtesy and expected to be treated with the same respect.

It is his personal opinion that nothing could have been said to ameliorate this issue. Board signatures for a land transfer require a board vote.

Further questions were asked by Mr. Carroll about precedent cases cited in his memo. Per Atty. Galvin, the resolutions were not compelling arguments in Norwell's case.

Mr. Morin corrected Mr. Carroll on several legal points.

### **Future Meeting Agendas**

All discussed the upcoming meeting on November 3rd and other agenda items.

### **Adjourn**

*Motion; made by Jason Brown, seconded by Pete Smellie, to adjourn at 8:58pm. Unanimously voted.*



**Bruce Graham, Chair**