

**Needham Finance Committee
Minutes of Meeting of March 30, 2011**

The meeting of the Finance Committee was called to order by the Chair, Richard Zimbone, at approximately 7:05 pm in the Charles River Conference Room at the Public Services Administration Building (Temporary Town Hall.)

Present from the Finance Committee:

Richard Zimbone, Chair; Matthew Borrelli, Vice Chair

Members: Richard Creem, Richard Lunetta, Gary McNeill, Richard Reilly, Steven Rosenstock, Lisa Zappala

Also Present:

David Davison, Assistant Town Manager/Director of Finance

Lee Newman, Planning Director

Ron Ruth, Planning Board, Chair

Robert Lizza, Proponent of Article 13

George Guinta, Proponent of Article 12

Jeffrey Friedman, Proponent of Article 11

Lou Wolfson, Proponent of Article 10

Gil Cox, in support of Article 10

Paul Iantosca, in support of Article 10

Craig Scholl, in support of Article 10

Citizen Requests

No citizens requested to speak.

Approval of Minutes

MOVED: By Mr. Rosenstock that the minutes of March 14, 2011, be approved. Mr. Reilly seconded the motion. There was no further discussion. The motion was approved by a vote of 7-0 (Mr. McNeill stepped out.)

MOVED: By Mr. Lunetta that the minutes of March 16, 2011, be approved. Ms. Zappala seconded the motion. There was no further discussion. The motion was approved by a vote of 6-0 (Mr. Borrelli abstained; Mr. McNeill stepped out.)

Annual Town Meeting Warrant Article 13: Accessory Structures

Mr. Lizza presented that article, and argued there was no financial impact to the Town. The proposal is to exempt pergolas from structure-to-structure setback requirements. Fences are exempted from these requirements. The required setbacks from the street and abutters would still apply. Mr. Ruth stated that the Planning Board had not voted, and was awaiting input from the Fire Department. Mr. Lizza stated that the Fire Department informed him that day that the

change would not be problematic as long as the structure did not create an impediment to commercial traffic. Ms. Zappala stated that she felt there was no financial impact for the Town.

MOVED: By Ms. Zappala that the Finance Committee take no position on Annual Town Meeting Warrant Article 13: Accessory Structures, as there is no financial impact. Mr. Rosenstock seconded the motion. There was no further discussion. The motion was approved by a unanimous vote of 8-0.

Annual Town Meeting Warrant Article 12: Amend Zoning By-Law/Reconstruction of Two-Family Dwellings

Mr. Guinta distributed a fact sheet and stated that the article would amend the zoning by-law to allow the Board of Appeals the flexibility to allow two-car garages in certain two-family reconstruction projects. Mr. Ruth stated that the Planning Board had taken a position against this article because a recently adopted by-law does not allow this because it would allow greater massing. Mr. Guinta stated that property values would be increased by having two-car garages. He also noted that the projects would still have to meet the same footprint and density restrictions. Mr. Ruth stated that tweaking one part of the set of requirements aimed at controlling massing could lead to other changes. Ms. Newman added that there was a disagreement between the Board of Appeals and the Planning Board before the recent by-laws were enacted as to whether these structures were allowable. The current by-laws are the result of a compromise. Ms. Newman confirmed that there would be no change to the size of the structure overall. Mr. Ruth stated that undoing part of this compromise could be problematic.

Mr. Reilly stated that there would seem to be positive financial impact if the garages increased property values. Mr. Ruth stated that the financial impact should not be the only aspect considered. Ms. Zappala asked his view of the financial impact. He stated that it is marginal, and that projects will still go forward. Mr. Rosenstock stated that this is the type of situation where the Committee should vote to take no position, but with an asterisk to designate that there may be financial impact, but it cannot be determined. There are arguments both ways on this issue.

MOVED: By Ms. Rosenstock that the Finance Committee take no position* on Annual Town Meeting Warrant Article 12: Reconstruction of Two-Family Dwellings, with the asterisk indicating that there is no quantifiable financial impact. Mr. Reilly seconded the motion.

Mr. Creem asked how many properties in Town might be affected. Mr. Ruth estimated 50-100 properties in total. Mr. Guinta stated there were 4-6 of these projects each year. The motion was approved by a unanimous vote of 8-0.

Annual Town Meeting Warrant Article 11: Amend Zoning By-Law/Farmers Market

Mr. Friedman stated that he is a member of the Farmers Market Committee and is here as a representative. The proposed Farmers Market will be entirely self-financed and there will be no financial impact to the Town, or only impact of a very minimal nature. They hope to open in

July 2012, only on Sundays, for a maximum of 4 hours. They are considering three properties (all parking lots): in front of the High School Gym, Christ Episcopal Church or Carter Memorial Church. They have contacted the High School Principal and the School Superintendent. They will need various approvals from Town as they proceed. There will be minimal expense, and they will cover all of it.

Mr. Ruth stated that the Planning Board voted to support the article, but with amended language. There were no policy issues, but the Planning Board needed to clarify the language. A handout with the amended language was provided. The Planning Board did not think it had a role to protect a local business competitor.

Mr. Creem stated that he supported the idea, and asked about the mechanics: who would set up, clean up, etc. He was concerned about additional work for the DPW. Mr. Friedman stated that this farmers market would be organized and run by residents who will contract with vendors and be responsible for all aspects, including costs and clean-up. They will also procure insurance. Clean-up will also be required in the vendor contracts. Initially, Farmers Market Committee members will be helping out each week, but eventually they might hire someone. All expenses would be paid by the Farmers Market. There will be a vendor fee.

Mr. Creem asked about Board of Health requirements. Mr. Friedman stated that the produce is not covered by Board of Health requirements. Any vendors of baked goods must be from Needham, the goods baked in Needham, and be already licensed by the Board of Health. Mr. Ruth added that there will be a special permit process, with many conditions addressing traffic, noise, trash, etc., that must be satisfied before the market can take place. Additionally there will be restrictions from the school or parking lot owners.

Mr. Rosenstock asked about food handlers' licenses. Mr. Friedman stated that there are sanitary requirements that the vendors would need to follow. Mr. Lunetta asked about whether there were issues if the market was at a church on Sundays. Mr. Ruth stated that he feels that the Dover Amendment, which exempts certain churches from zoning requirements, does not apply here.

Mr. Borrelli expressed concern about the negative effect of a farmers market on Needham businesses that sell Needham-grown plants and produce. Mr. Friedman stated that he did not think there would be a negative effect on such businesses, because the market would only be open for four hours per week. He stated that statewide, farmers markets have had a positive effect on other local sellers because they cause increased demand for fresh local produce. Since the farmers market is only available at very limited times, people would buy local produce at the other local businesses at other times. Mr. Borrelli asked if there would be rental fees if the School parking lot is used and what discussions have taken place regarding renting space. Mr. Friedman replied that the discussions have not gotten that far yet. Ms. Zappala stated that she personally supports the idea, but feels the Finance Committee might not take a position since there seems to be no significant or measurable financial impact if the Town will not have any clean-up costs or receive any fees from the farmers market. Mr. Reilly agreed with the conclusion, but felt that the conclusion that there is no economic impact is based on assumptions

that may or may not be accurate. Mr. Creem agreed that this is more like the earlier discussions where there may be a financial impact, but it is not clearly quantifiable.

MOVED: By Ms. Zappala that the Finance Committee take no position* on Annual Town Meeting Warrant Article 11: Farmers Market, with the asterisk indicating that there is no quantifiable financial impact. Mr. Borrelli seconded the motion.

Mr. Reilly stated that the Committee is assuming that a non-quantifiable impact is the same as an insignificant impact. Mr. Zimbone stated that in this case, any negative impact would be *de minimus* because the permit will not be continued if the Farmers Market does not adhere to the provisions in the permit. The motion was approved by a vote of 8-0.

Annual Town Meeting Warrant Article 10: Amend Zoning By-Law/Needham Center Overlay District

The proponent showed posters of a proposed building project and how it would appear as a three-story and as a four-story building. Mr. Wolfson stated that allowing four-story buildings in the Needham Center Overlay District is not in character with the Town. Mr. Cox urged the Committee to take a position that there is a financial impact, since the Town Center already has a parking problem which would be worsened with bigger buildings. Mr. Zimbone expressed concern that this appears to be a zoning amendment aimed at preventing one developer from one project. Mr. Wolfson stated that there are objections to the project throughout Town.

Mr. Ruth reported that the Planning Board voted on this article. They supported the article in part, and opposed it in part. The Board voted to amend the article to eliminate four story buildings in the Downtown area, but to continue to allow four stories in the Chestnut Street section of the district. The amended version was approved by a vote of 3-2.

Mr. Creem stated that there was an extensive study done of the Downtown area to create the current zoning by-laws two years ago. The four-story zoning was expected to encourage development. A current project proposed at the site of the old cinema has been controversial and has led to this citizen's petition. The majority of the Planning Board is supporting it, notwithstanding the Town Meeting vote. There is not a consensus of business and citizens in favor of allowing four story buildings.

Ms. Zappala stated that she spoke about the Needham Center Overlay District at the 2009 Annual Town Meeting. There was a detailed fiscal impact analysis showing the financial benefit of the proposed zoning articles. If one does the math, it would seem that allowing smaller buildings would decrease the financial benefit. Without the same type of financial analysis, it is hard for the Committee not to find that this article would have a negative economic impact. She stated that she understands the proponent's arguments concerning aesthetics and parking constraints but there is nothing to show a positive financial impact.

Mr. Reilly asked whether the Economic Development Department had taken a position. Ms. Newman stated they had not, and the issue is not under active consideration. Mr. Creem read a section from a Planning Board document from 2009 which addressed the fact that the height

restrictions were intended as part of a long term plan, and that a special permit that allowed a four-story building would be granted only when specific criteria were met, including visual aesthetics, parking, and other factors. In light of the Planning Board's authority under the by-law, Mr. Creem questioned whether the proposed amendment is necessary.

Mr. Borrelli stated that he was concerned regarding the building heights as a Town Meeting Member when the current zoning laws were voted. He feels Needham does not have sufficient infrastructure including but not limited to parking to accommodate the increased build out with four story structures. He supports the Article that would limit the building heights in the districts.

Mr. Ruth noted that the Planning Board will discuss the special permit for the underlying four-story building project on May 24, after Town Meeting.

Mr. Scholl stated in response to Ms. Zappala's statements that the financial impact study has relied upon a 30% build-out rate under the zoning regulations, and that if you assume a higher build-out rate with three-story buildings, the economic impact would be the same. Mr. Rosenstock commented that there is more incentive for developers to build higher buildings because it costs less per square foot.

Mr. Zimbone stated that the Finance Committee does not have enough information to vote on the article at this time, and suspended the discussion until there is further information to consider. He stated that the proponents were welcome to come back to present economic arguments.

Annual Town Meeting Warrant Article 5: Amend Zoning By-Law- Technical Amendments for New England Business Center, Highland Commercial-128 and Mixed Use-128 Districts

Mr. Ruth explained that the article clarifies uses within the New England Business Center. Ms. Newman stated that the plan created in 2001 envisioned more uses, including medical lab usage, but the language did not reflect the plan sufficiently. This will clarify the language to enforce the original intent. Mr. Ruth reported that the Planning Board unanimously supported the article.

MOVED: By Ms. Zappala that the Finance Committee take no position with respect to Annual Town Meeting Warrant Article 5: Amend Zoning By-Law- Technical Amendments for New England Business Center, Highland Commercial-128 and Mixed Use-128 Districts, since there is no financial impact. Mr. Creem seconded the motion.

Mr. Borrelli stated that if the property use is expanded there would be a financial impact. Ms. Newman stated that use will be the same, and that the article is just corrective; the language is clarified. The motion was approved by a unanimous vote of 8-0.

Annual Town Meeting Warrant Article 9: Amend Zoning By-Law- Schedule of Use Regulations

Mr. Ruth stated that the article would allow the Planning Board more flexibility for the scheduled uses of property. The Economic Development Director has gotten many questions from businesses that don't fit within the exact descriptions in the By-Laws. When zoning language is too specific, it often becomes obsolete. This will allow flexibility to allow similar businesses to those described. Ms. Newman stated that the same permitting processes would apply to similar types of businesses. Mr. Reilly asked about recourse if the Planning Board abuses its discretion. Mr. Ruth stated that a complaint could be filed in the District Court.

Ms. Newman stated that the Town has been turning away some innovative businesses because of the current overly restrictive language. Mr. Zimbone stated that this article appears to have a financial impact.

MOVED: By Mr. Reilly that the Finance Committee recommend adoption of Annual Town Meeting Warrant Article 9: Amend Zoning By-Law- Schedule of Use Regulations. Mr. Borrelli seconded the motion. There was no further discussion. The motion was approved by a unanimous vote of 8-0.

Annual Town Meeting Warrant Article 6: Amend Zoning By-Law- Outdoor Seating

Mr. Ruth stated that this article would allow the Planning Board to grant permits for outdoor restaurant seating on private property, and allow the Board of Selectmen to do the same on public property. There are restrictions such as not interfering with pedestrian or vehicle traffic. The concept is to allow outdoor dining in Needham Center. Ms. Newman stated that outdoor seating would only be available at restaurants with wait-staff service.

Mr. Borrelli stated that the article could encourage development. Ms. Zappala stated that it might increase capacity and meals tax revenue. Mr. Rosenstock asked if the financial impact could be quantified. Mr. Creem stated that there would be minimal additional seating, and that people might just have more choices of seating, so it is very difficult to quantify. Mr. Reilly commented that the impact is not quantifiable, but if it were measurable, it would be positive.

MOVED: By Mr. Creem that the Finance Committee take no position* on Annual Town Meeting Warrant Article 6: Amend Zoning By-Law- Outdoor Seating, with the asterisk indicating that there is no quantifiable financial impact. Mr. Rosenstock seconded the motion. The motion was approved by a vote of 8-0.

Annual Town Meeting Warrant Article 7: Amend Zoning By-Law- Neighborhood Business District

Mr. Ruth stated that this article is intended to give some latitude to uses of properties in the Neighborhood Business District. Ms. Newman stated that the rules currently restrict the uses to businesses that serve the neighborhood where it is located. It is not working well in certain areas. Owners and realtors are unable to lease the properties because of the restrictions. Ms. Zappala stated the article would extend uses of properties on Reservoir Street and on South Street to broader uses and office space, and not just to businesses that service the neighborhood. The properties could also be converted back to single or two family housing.

Mr. Reilly stated that a two family home with many children could mean more costs for the Town. Mr. Rosenstock stated that there are some pluses and some minuses from a financial perspective. Mr. Ruth agreed but stated that the impact should be positive overall, and that the current restrictions are not working. Ms. Newman stated that the restrictions were too broad at first, so they were contracted, but they now are too restrictive. Ms. Zappala asked if this article is based on feedback from the neighborhood residents or abutters. Mr. Ruth stated that this article came from the Economic Development Director who has been getting complaints about people being unable to fill vacancies because of zoning restrictions.

MOVED: By Mr. Borrelli that the Finance Committee recommend adoption of Annual Town Meeting Warrant Article 7: Amend Zoning By-Law- Schedule of Use Regulations. Mr. Reilly seconded the motion.

Ms. Zappala questioned whether the Committee could say the impact is positive. The Committee seemed to be moving toward the conclusion that the impact was not quantifiable because of the possibility that the properties could be converted to two-family homes. Mr. Borrelli stated that the impact was positive because the article would allow more businesses. Mr. Reilly stated that the two-family homes were a fallback. Also, two-family housing is better than a failing commercial structure. Mr. Zimbone argued that because of the limited number of properties, the impact may be insignificant. Ms. Zappala stated that if there were homes with residents, the Town would get more tax revenue than in the cases where there are tax abatements granted to failing businesses.

Mr. Borrelli and Mr. Reilly withdrew the earlier motion.

MOVED: By Mr. Creem that the Finance Committee take no position* on Annual Town Meeting Warrant Article 7: Amend Zoning By-Law- Neighborhood Business District, with an asterisk to indicate that there is no clearly quantifiable financial impact. Mr. Reilly seconded the motion. The motion was approved by a vote of 8-0.

Annual Town Meeting Warrant Article 8: Amend Zoning By-Law- Corrective Zoning Amendments

Ms. Newman stated that she has been collecting this list of technical corrections of zoning by-laws for two years.

MOVED: By Ms. Zappala that the Finance Committee take no position on Annual Town Meeting Warrant Article 13: Accessory Structures, as there is no financial impact. Mr. Reilly seconded the motion. There was no further discussion. The motion was approved by a vote of 7-0. (Mr. Rosenstock had stepped out.)

Finance Committee Updates

Mr. Creem stated that the Association of Town Finance Committees is having a regional meeting on May 17 in Boston. The MMA deputy legislative director will speak.

Mr. Reilly stated that he attended a public hearing regarding the Senior Center. There was a presentation of possible sitings of the 20,000 square foot building on the lot. The preliminary cost estimates will be available in June.

Move into Executive Session

MOVED: By Mr. Creem, pursuant to Mass. General Laws Chapter 30a, Section 21, subsection (a), that the Finance Committee enter into Executive Session under the following exceptions: Exception 2, to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel; and Exception 3, to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares, not to return to open session prior to adjournment. Mr. Reilly seconded the motion.

Roll call vote: Mr. Zimbone: Aye; Mr. Borrelli: Aye; Mr. Rosenstock: Aye; Mr. McNeill: Aye; Mr. Creem: Aye; Ms. Zappala: Aye, Mr. Lunetta: Aye; Mr. Reilly: Aye. The motion was approved by a vote of 8-0, at approximately 9:22 pm.

Documents: Annual Town Meeting Warrant Draft dated 3.30.11; Amended and Planning Board Supported Amendment to Article entitled Amend Zoning By-Law – Farmers Market; Fact Sheet: Petition to Amend Zoning By-Law – Reconstruction of Two-Family Dwellings

Respectfully submitted,

Louise Mizgerd
Executive Secretary

Approved April 6, 2011