

Needham Finance Committee
Minutes of Meeting of May 1, 2013

The meeting of the Finance Committee was called to order by the Chair, Richard Reilly, at approximately 7:30 pm in the Great Plain Room at the Town Hall.

Present from the Finance Committee:

Richard Reilly, Chair; Richard Lunetta, Vice Chair

Members: John Connelly, Richard Creem, Gary McNeill, Louise Miller, Lisa Zappala, Richard Zimbone

Also Present:

Kate Fitzpatrick, Town Manager

David Davison, Assistant Town Manager/Finance Director

Dan Matthews, Chair, Board of Selectmen

Lee Newman, Planning Board

Bruce Eisenhut, Chair, Planning Board

Kathleen Phelps, Bay Colony Rail Trail

Patty Carey, Director, Park and Recreation Department

David Tobin, Town Counsel

Special Town Meeting Articles Discussed:

Article 4: Amend Zoning By-Law Lot Width Definition/Measurement

Article 8: Appropriate for General Fund Cash Capital

Article 9: Appropriate for Sewer Line Reconstruction

Annual Town Meeting Articles Discussed

Article 28: Authorize Lease of Rail Corridor

Citizen Requests

There were no requests to address the Committee.

Minutes of Prior Meetings

MOVED: By Ms. Miller that the Finance Committee recommend approval of the Minutes of March 27, 2013 as revised. Mr. Lunetta seconded the motion. The motion was approved by a vote of 8-0.

Special Town Meeting Warrant Article 4: Amend Zoning By-Law Lot Width Definition/Measurement

Ms. Newman stated that this article pertains to By-Law requirement from 1986 that required a certain amount of lot frontage, but did not define how the measurement should be made. This article delineates how to measure lot width where there is a convex or concave frontage. Mr. Eisenhut stated that the article is needed since the way a lot width is measured can make the difference as to whether a building permit can issue. This will prevent ambiguity or discretion

among building inspectors that could lead to a dispute, appeals and potentially litigation. He stated that one dispute has arisen. Mr. Reilly asked what issue is most important to understand. Ms. Newman stated that this will ensure that sufficient width is retained from the frontage through the structure to the back of the lot, and will show how to determine width where there is a curve. Mr. Connelly asked about the financial implication. Mr. Eisenhut stated that it should alleviate ambiguity and discretion provide standards that should reduce disputes. Ms. Zappala stated that the result would be cost avoidance. Mr. Eisenhut stated that there is currently a dispute that will likely end up at the Board of Appeals. Mr. Zimbone asked if the proposed language came from other towns. Ms. Newman stated that the language was written by the Planning Department in consultation with the Building Department. Mr. Eisenhut stated that the language has been reviewed and carefully vetted by the Planning Board, including consultation with surveyors and administrative lawyers.

MOVED: By Mr. Connelly that the Finance Committee recommend adoption of Special Town Meeting Warrant Article 4: Amend Zoning By-Law Lot Width Definition/Measurement. Ms. Zappala seconded the motion. There was no further discussion. The motion was approved by a voted of 8-0.

Annual Town Meeting Warrant Article 28: Authorize Lease of Rail Corridor

Mr. Reilly described how the Board of Selectmen did not want to proceed with this Article if the Finance Committee was not comfortable supporting the article. The Board was considering withdrawing the article. Mr. Reilly stated that the Bay Colony Rail Trail (BCRT) had stated that they would lose the momentum that they have gained and that is need for successful fundraising if the article is withdrawn.

Mr. Matthews stated that the issue is whether to grant the Town the authority to enter into a lease with the MBTA for the right of way, or whether it would be better to wait. He stated that the MBTA granted its General Manager the authority to negotiate a lease of the rail corridor to four communities, including Needham, in 2012. He stated that there are outstanding concerns. First, the Town would be required to obtain environmental liability insurance for a cost of approximately \$22,000 for the Town. Also, the MBTA has indicated that they want to maintain the rights on a stretch from Needham Junction to High Rock Street. Another issue is the deteriorated bridge to Dover. Dover plans to lease only the land up to the river's edge and not any part of the bridge, though the town line is in the center of the bridge. The bridge cannot be repaired, and is expected to cost \$1 million to replace. Another issue is that Newton is not planning to bring its trail all the way to the border of Needham. Also, there have not yet been discussions with all of the abutters.

Mr. Matthews stated that there are also arguments in favor of proceeding. He stated that there is a current opportunity to lease the property for \$1 per year, which may not always be available. He stated it is better to lease all the land at once, because it would then be covered under one environmental liability policy for the same price. He stated that it would be helpful for BCRT if the Town shows commitment to this project, which this authorization would do. He stated that ultimately, the cost of constructing the trail will need to be borne by private fundraising, and the BCRT indicates that it needs this benchmark to proceed. He stated that even without the link to Dover, the project has great potential. Mr. Matthews stated that the Board of Selectmen is asking for the authorization to enter into a lease, but that the Board hope to consult with the Finance Committee before signing.

Ms. Carey presented handouts with slides from the presentation given to the Board of Selectmen, certain pages from the anticipated consultant's report, and a copy of Newton's rails corridor lease with the MBTA. Mr. Reilly stated that the primary focus should be the financial implications of the project. The Committee has been told that most of the fundraising would be private, and asked for clarification of what that meant, and where the money would come from if the fundraising is not sufficient. Mr. Matthews stated that when private fundraising is not successful, people often turn to the Town, but he stated that they intend to hold the BCRT to their word. Mr. Lunetta asked about the company that would pull up the rails for free in exchange for the iron. Ms. Phelps stated that the group has done work in several communities and is planning to do the work in Newton. However, the company tends to do work within one geographic area, and then move out and work in a different area. She stated that they are not counting on this option, since the timing could be an issue. She stated that they had gotten a verbal estimate of \$190,000 for a plan that would also cap the trail to address possible environmental issues. She stated she was not sure of whether a lease would include the "Y" area of the track, but that there are some environmental hot spots there, as well as an oil leach at Fisher Street. There could also be problems caused by having creosote-soaked wood in the soil for years. Mr. Lunetta asked if the trail is worth pursuing if it cannot connect to Newton or Dover. Ms. Phelps stated that it would provide recreation for walkers and younger bikers. She stated it would connect with the Town Forest.

Mr. Zimbone stated that he is reluctant to make a decision until he sees the study. There was a discussion of proximity of the NStar right of way to the rail corridor and NStar's use of herbicides. Mr. Zimbone asked about the ongoing costs of maintaining the rail trail, as well as general liability. Ms. Fitzpatrick stated that there would be some costs for signage, such as notifications of crossings. She stated that BCRT is working on creating a trust fund for maintenance. Ms. Phelps stated that the BCRT is learning from other communities about funding needed for the trust. She stated that they may sell mile post advertising. Ms. Carey stated that most existing trails are maintained by volunteers in the rail steward program, and there would be stewards for this trail. Mr. Reilly asked whether there would be any unique costs for this trail. Ms. Carey stated that it will depend on the surface, but she does not expect it to be much different.

Mr. Connelly stated that the MBTA's lease with Newton requires general liability, workers' compensation and auto liability insurance in addition to the environmental insurance. He asked whether the Town has quotes and the money for that, which would be necessary when the lease is signed. Mr. Tobin stated that the Town already carries most of that coverage, though not the environmental insurance, which must indemnify the MBTA and will cost approximately \$20,000 for five years of coverage. Mr. Davison stated that the general liability and auto insurance required by the MBTA is included in the Town's current policy with the MIA which covers all fields, parks and buildings. There will be no additional premium for the coverage to fall within the Town's liability and umbrella policies. Mr. Reilly asked if the MBTA will accept the Town's policy. Ms. Phelps stated that the MBTA would accept anything purchased through the state program.

Ms. Miller stated that she likes the idea of the project, but did not understand why the article was not limited to MBTA property, and instead allowed the Board of Selectmen to lease abutting property and other types of property. She also stated that the Newton lease has an exemption if funding fails, and asked if there is any backup plan in this case if there are not sufficient funds

raised to complete construction. Mr. Matthews stated that the point is to put the burden on the proponents to raise the money, and not to provide funding. Mr. Tobin noted that in order to lease the property, money will be needed, so the Town would need to come back to the Finance Committee. He stated that the article will be drafted to give flexibility that may be needed to lease property beyond the MBTA property to create the rail trail. Ms. Miller stated that there should be a plan before allowing the authority to lease. She asked if there were any funds left from the feasibility study. Ms. Carey stated there was not.

Mr. Matthews stated that a draft of the study would be made available immediately. He stated that the Board of Selectmen would decide Monday before Town Meeting whether to withdraw this article. He stated if the Finance Committee does not support the article, the Board would not want to continue. Mr. Connelly asked why this lease was being treated differently from the golf club lease where the specific lease was presented for consideration. Mr. Matthews stated that the Town owned the land in that situation, so there was flexibility. In this case, the land is owned by another party that could change its mind. He stated that in most cases, the Board asks for the authority to negotiate and does not bring a contract such as a purchase and sale from the start. He stated that the reasons to proceed are that the price, \$1 per year, is as good as it will get. Also, acting now will continue the momentum that the BCRT has built up for beginning fundraising for construction. Ms. Zappala asked why Newton doubled the amount of environmental insurance. Ms. Phelps stated that they had had a bad experience with asbestos during another project. Ms. Zappala stated that she is not troubled to give authority to sign a lease, but would like to get more information on the cost scenarios. She stated that she felt the Town would be reticent to stop a project once it has started, but spending for this project will take away from other needs. Mr. Matthews stated that the Town intends to hold BCRT to its promise to fund the construction, but he does expect there to be maintenance costs. He stated that the Town would wait to see the success of the fundraising before starting construction. Ms. Phelps stated that the following costs are expected: \$400,000 for construction, \$120,000 to remove rails, \$100,000 for a parking lot at one end, \$85,000 for parking at the other end, plus costs for signage.

Mr. Reilly stated that Town Meeting funded a study in order to have a basis for a decision regarding the rail trail. He stated that he is not satisfied with the process of trying to move on before that study has been considered. He asked whether there is a way to move forward without giving the full authorization to enter into a lease. Mr. Connelly stated that he agreed. He stated that the intentions are good, but that without the study it is premature to authorize the Board to sign a lease. Mr. Zimbone stated that it could cost \$1 million for a 1 ½ mile rail trail. He stated that he needed information to know whether this would be a good value. Mr. Reilly asked if the CPC has expressed a view. Ms. Carey stated that funding the rail trail is a possibility, but is not on the CPC's 5 year plan. Mr. Matthews stated that it is not on the CPC's plan because they are expecting private fundraising. Ms. Zappala stated that it sounds like a lot of money to raise. Mr. Matthews agreed that action should not be taken until the study is available. Mr. Reilly stated that the Committee is willing to signal support of the project, but not to make a conclusion. Mr. Connelly stated that it is premature to take this issue to Town Meeting. Mr. Zimbone agreed. Ms. Miller noted that fundraising will be difficult without a lease, but if the lease won't be authorized until funding is determined, it will create an endless cycle. Ms. Phelps stated that the BCRT would not need a lease to fundraise, but would need the authority to enter into a lease. She stated that they are already starting to get some funding.

Mr. Creem stated that the sentiment seems to be better for a resolution at Town Meeting rather than authorizing a lease. He stated that could keep the issue moving but allow the Committee to understand the substantive issues. Mr. Creem stated that he serves on the on the MBTA Advisory Board, and that there has been discussion about the T's lack of capacity to extract funds from its properties. He stated that their willingness to enter into a 99 year lease for \$1 could change. He stated that he would have to abstain from a Finance Committee vote on this issue, but stated that he is not persuaded by the argument that the lease authority is needed for fundraising. He stated that if the project has merits, the fundraising will be successful.

Mr. Matthews stated that if this article is not ready for prime time, then it should not be presented to Town Meeting. Mr. Reilly asked what would happen if the Town signed a lease, but did not do the construction. Mr. Tobin stated that the MBTA could take the property back, contract for the work, then make the Town pay for it. Mr. Zimbone stated that he would be more comfortable if he could see the report, and get more information about the cost of improvements, and how abutters' concerns will be addressed. Mr. Connelly stated that more information needs to be known about the bridge to Dover. It has been deemed unsafe, but once a lease is signed, the Town could have responsibility for it.

Special Town Meeting Warrant Article 8: Appropriate for General Fund Cash Capital

Mr. Davison stated that the article will be withdrawn by the Board of Selectmen.

Special Town Meeting Warrant Article 9: Appropriate for Sewer Line Reconstruction

Mr. Davison stated that the article will be changed to have the funding source be cash, not borrowing. Mr. Creem stated that his major concern with the article was the fact that the financing source had not been determined, and it is a material aspect of the article that needed to be known to make an informed decision. He is happy that this has progressed but he would prefer to know the bid amounts. Mr. Zimbone stated that Mr. Davison stated that he would leave the article at \$200,000 even if the bids came in lower. Mr. Davison stated that the bids will be in on May 6 at 3:00 pm. Mr. Creem stated that since the dollar amount in the article is in the warrant, and that can only be reduced according to the Moderator's practice, then he is willing to vote on this article.

MOVED: By Mr. Connelly that the Finance Committee recommend adoption of Special Town Meeting Warrant Article 9: Appropriate for Sewer Line Reconstruction. Mr. Creem seconded the motion.

DISCUSSION: Mr. Creem asked for information where the cash would be coming from. Mr. Davison stated that \$8,500 is the balance of the Route 128 sewer line relocation study. \$9,000 is left after the completion of the sewer I/I rehabilitation work in area 21. \$48,000 is the balance on the Route 128 sewer line engineering work. \$33,000 is the balance from the purchase of a flushing truck which is sewer specialty equipment. \$98,500 if for a sewer rodder truck that was not needed. Mr. Creem requested a report on the bid results when available.

VOTE: The motion was approved by a voted of 7-1, with Ms. Miller dissenting.

Finance Committee Updates

Mr. Reilly stated that he would make hard copies of the operating budget presentation slides available for Town Meeting Members. Ms. Miller stated that the increase in debt service of 7.9% jumps out. Mr. Davison stated that FY14 is a peak year for CPA debt, including the Town Hall, and for debt exclusion projects.

Adjourn

MOVED: By Mr. Zimbone that the Finance Committee meeting be adjourned, there being no further business. Ms. Miller seconded the motion. The motion was approved by a vote of 8-0, at approximately 8:30 p.m.

Documents: 2013 Annual Town Meeting Warrant; May 2013 Special Town Meeting Warrant, draft dated April 10, 2013.

Respectfully submitted,

Louise Mizgerd, Executive Secretary/Staff Analyst

Approved June 12, 2013