

**Needham Finance Committee
Minutes of Meeting of April 25, 2018**

The meeting of the Finance Committee was called to order by Chair Richard Reilly at approximately 7:00 pm at the Needham Town Hall.

Present from the Finance Committee:

Richard Reilly, Chair; Barry Coffman, Vice Chair

Members: John Connelly, Tom Jacob, Joshua Levy, Kenneth Lavery, Richard Lunetta, Louise Miller, Carol Smith-Fachetti

Others present:

Kate Fitzpatrick, Town Manager

David Davison, Assistant Town Manager/Finance Director

Marianne Cooley, Chair, Select Board

Dan Matthews, Vice Chair, Select Board

John Bulian, Select Board

Matt Borrelli, Select Board

Moe Handel, Select Board

Lee Newman, Director of Planning and Community Development

Paul S. Alpert, Vice Chairperson, Planning Board

Rick Merson, Director, Public Works

Stephen Popper, Public Facilities, Director of Construction

Citizen Requests to Address Finance Committee

No citizens requested to speak.

Approval of Minutes of Prior Meetings

MOVED: By Mr. Jacob that the minutes of April 4, and April 11, 2018 be approved as distributed, subject to technical corrections. Mr. Levy seconded the motion. The motion was approved by a vote of 7-0. (Ms. Miller and Ms. Fachetti had not yet arrived.)

2018 Town Meeting Warrant Articles:

Annual Town Meeting Articles (Zoning)

Article 23: Zoning – Permitted Uses Neighborhood Business District

Article 24: Zoning – Map Change Neighborhood Business District

Ms. Newman stated that the two articles together would allow housing in a Neighborhood Business District built on upper stories for mixed use developments with a special permit. It allows a greater height and greater floor-area ratio (FAR) and reduces the setback requirements for residential property. It also provides some housekeeping provisions to apply certain zoning requirements to lots that are currently subject to different zoning on different parts. Ms. Newman described the area covered and the streets bordering the proposed zoning. Mr. Coffman asked if a specific project is proposed that has precipitated the zoning change. Mr. Alpert stated

that Panella's Market wants to convert its upstairs to apartments, but he knows of no others in the district. He stated that there is no issue with spot zoning, since they are changing the zoning in the entire neighborhood. He stated that these provisions apply to the neighborhood businesses as well. In response to a question from Mr. Reilly, Mr. Alpert acknowledged that Article 24 provisions apply only to the Panella's Market property, but that Town Counsel reviewed the proposal and indicated that it is not spot zoning. Ms. Newman stated that it just expands the current district. Mr. Coffman asked why the changes are not going to apply to all neighborhood business districts. Ms. Alpert stated that that would require a significant amount of work and study, and the Planning Board did not do that at this time. Mr. Connelly asked why affordable zoning requirements were added if the changes would only affect Panella's, which would be too small to meet the threshold. Mr. Alpert stated that the requirements would apply to other lots in the area as well. He added that they include the affordable housing requirements wherever new housing stock might be added in order to preserve the current Chapter 40B exemption.

Mr. Levy asked why the changes are allowed by special permit rather than by right. Ms. Newman stated that it is because the new restrictions allow an additional story on the building and greater density and FAR. Mr. Reilly noted that the language in the article information about the affordable housing requirements for 6-10 units and 11 or more units or more units is unclear terms and can be seen as inconsistent with the language of the bylaw. He suggested that the Town Meeting presentation should be very clear on that point. Mr. Reilly stated that the economic impact seems to be that it increases the utility of these properties. Mr. Coffman stated that it allows for additional housing stock. Mr. Jacob asked if the neighbors commented. Ms. Newman stated that they received one comment and that no one showed up for the public hearing.

MOVED: By Mr. Connelly that the Finance Committee recommend adoption of approve the 2018 Annual Town Meeting Warrant Article 23: Zoning – Permitted Uses Neighborhood Business District and Article 24: Zoning – Map Change Neighborhood Business District. Ms. Miller seconded the motion. The motion was approved by a vote of 9-0.

Article 25: Zoning - Side/Rear Setbacks -Adjoining Residential Districts

Mr. Alpert stated that there is a current 50-foot setback requirement from any residential property. When a commercial property abuts a residential property, then the 50-foot setback applies to the abutting property line. The Route 128 corridor is zoned residential, although there will never be homes there. This provision would remove the 50-foot setback for commercial properties on the property lines abutting the 128 corridor. He stated that they originally looked into re-zoning the 128 property to be nonresidential, but that would require establishing the specific metes and bounds of the area which is essentially impossible. Instead, they are using a different approach to achieve that goal, by eliminating the setback requirement for properties that abut Route 128. He named the streets where the properties were located. Mr. Connelly stated that this request is strange, since the setback has existed for a long time. He asked why there is a need for the change. Mr. Alpert stated that the purpose of the setback is to protect residences, and there is no reason to have that restriction in this area. Mr. Reilly asked how far the highway property extends. Mr. Merson stated that there is usually a defined amount of space from a baseline such as the center line of a road. Ms. Miller questioned whether the language of the proposed by-law limits the change only to the setbacks on the side of the lot abutting the highway. Mr. Alpert stated that the exception only applies to properties contiguous with the

Route 128/95 property. There are no houses there now, and will not ever be unless the highway is closed down.

Mr. Matthews stated that the setback requirement was imposed when the zoning was expanded in the Chestnut Street area and commercial properties abutted residential backyards. The 50-foot setback was meant to protect those residences. Mr. Reilly stated that it would make most sense to change the zoning of the Route 128 area to nonresidential, but since that is not practical, this is an attempt to do the same thing in a different way. Ms. Miller stated that she feels that the change of the 50-foot buffer from the highway to 20 feet will be significant for residential properties directly across the street. They will lose some off the buffer and it will change their enjoyment of the property. Mr. Handel stated that there will be a significant wall built as a noise barrier, and that there will be little practical effect on nearby residences. Mr. Alpert stated that the commercial properties will have more room to build. Mr. Jacob stated that allowing more use of the property would be better for the Town financially. Mr. Reilly stated that the increased use of the property means that property could be worth more, and if a building were added, there would be increased value. Mr. Davison stated that the affected properties will not be revalued by the Town just because of the zoning change.

MOVED: By Mr. Jacob that the Finance Committee recommend adoption of approve the 2018 Annual Town Meeting Warrant Article 25: Zoning - Side/Rear Setbacks - Adjoining Residential Districts. Mr. Levy seconded the motion. The motion was approved by a vote of 7-2, with Ms. Miller and Mr. Connelly dissenting.

Article 43: Zoning - Marijuana Establishments

Mr. Reilly stated that this article is included in the warrant in addition to the proposed general by-law to prohibit the sale of marijuana for recreational purposes. He stated that the Finance Committee voted against the general by-law article, therefore against the prohibition, on a financial basis. Ms. Newman stated that this article would prohibit the use of property for recreational marijuana establishments through zoning. Mr. Levy stated that it would be inconsistent for the Committee to support this article after it did not support Article 44, the general bylaw seeking to prohibit recreational marijuana establishments. Mr. Alpert stated that this article is arguably more restrictive because it will take a 2/3 vote to pass, and would then take a 2/3 vote to change it later. Mr. Reilly stated that in the last discussion, the Committee felt that that there were potential economic benefits, and that there was no evidence that the possible negative aspects outweighed the positive aspects when considering other places that have allowed recreational marijuana. Mr. Matthews stated that the Town has the right to ban recreational marijuana because the Town voted against it in the state referendum, so the Select Board asked the Planning Board to add this zoning restriction in addition to the proposed general by-law to follow through on the issue. He stated that it is a new industry, and the Board thinks it is best to see how it plays out elsewhere first. Mr. Levy stated that there appear to be more financial positives than negatives. He noted that there has been no need for additional policing needed for liquor stores, and that the public health measures have been effective.

MOVED: By Mr. Levy that the Finance Committee recommend that Town Meeting not adopt of 2018 Annual Town Meeting Warrant Article 43: Zoning - Marijuana Establishments. Ms. Miller seconded the motion. The motion was approved by a vote of 8-1, with Ms. Fachetti dissenting.

Annual Town Meeting Articles

Article 13: Long Range Plan

Mr. Reilly stated that this article requests funds for a consultant to address implications of growth in Town. Mr. Matthews stated that much has changed over the last decade, and this will allow the town to take stock of increases in population and other growth to know how to move forward. He stated that the Future School Needs Committee has produced some useful data, but the scope is limited. Mr. Jacob asked how the \$50K amount was determined. Ms. Fitzpatrick stated that she spoke to other Towns who had done significantly larger plans for \$100K, and felt that this was the right amount for what they are planning to do. This will be a gap analysis, as the Town already has a lot of data. Mr. Reilly asked what the product of the work would be. Ms. Fitzpatrick stated that the Town would have updated information about the economic build-out of the Town. In the past, the Town has encouraged as much growth as possible, and now wants to consider what is the best approach. Ms. Miller asked whom the consultant would meet with, and who would provide feedback. Ms. Fitzpatrick stated that the Select Board would put together a working group that will decide the questions that need to be answered. Mr. Connelly asked if the consultant would provide an opinion or just marshal the data for the Boards to consider. Ms. Fitzpatrick stated that this would provide only data, not recommendations. Mr. Connelly asked why the Town could not do this work. Ms. Fitzpatrick stated that there is additional data needed on infrastructure and traffic that the Town does not have. Ms. Fachetti asked if \$50K would be enough for what is needed. Ms. Fitzpatrick stated that it is essentially a long range plan “light,” and that with the working group, that should be sufficient.

Mr. Lunetta suggested that it would make more sense to establish the working group and determine what is needed before requesting the funds rather than to request the funds upfront and then to determine how to spend the funds. Mr. Matthews agreed that that idea made sense, but it would be better to have the appropriation and to be ready to act when the group starts. Ms. Fitzpatrick stated that it would all happen within a year. Mr. Reilly stated that the charge of the working group and of the consultant is not clear at this point. Ms. Miller asked who would be on the working group. Ms. Fitzpatrick stated that there would be members of the Select Board, Finance Committee, School Committee and Planning Board. Mr. Matthews stated that the Planning Board is currently guiding what is happening with growth, and this would provide input from other stakeholders. Ms. Fachetti stated that this sounds like a demographic study rather than a plan. Ms. Fitzpatrick stated that the population pushes the service needs. Mr. Reilly stated that it would be helpful to gain an understanding of the potential consequences of taking different actions, and he is not sure that this work would provide that insight. Mr. Matthews stated that the Town currently comes up against issues that it does not have the data to help understand the implications, such as when expansion will lead to the need for an additional school, or how much additional public safety staff is needed. Mr. Lavery asked if other towns have had success with such plans. Ms. Fitzpatrick stated that other towns have prepared bigger plans than this. Mr. Bulian stated that it will be important also to assess some of the effects of the growth in abutting towns. He stated that the Town does not have the expertise to pull everything together.

Mr. Levy stated that the concept has value, but there needs to be a clear idea of the questions that will be asked. Ms. Miller stated that she agreed with Mr. Lunetta’s thought that the working group should be convened before the scope of the study can be determined. Mr. Levy and Mr. Connelly agreed. Mr. Coffman stated that he also sees value in the proposal, but he believes that the scope will be bigger than anticipated and that \$50K will not cover what is needed once they

know what questions need to be answered. Mr. Reilly stated that the idea has value but the goal needs to be better defined. He stated that waiting until later for the funding would not be a significant setback. Mr. Jacob agreed that there would be value but it would be better to wait until the Fall Town Meeting when the scope is defined. Mr. Lunetta stated that it is a great idea, but he needs to know more about what the money will be spent for.

MOVED: By Mr. Connelly that the Finance Committee recommend that Town Meeting not adopt 2018 Annual Town Meeting Warrant Article 13: Appropriate for Long Range Plan. Ms. Miller seconded the motion. The motion was approved by a vote of 9-0.

Mr. Reilly noted that the Article 13 vote reflects the timing and the structure of the request and not the merits of the underlying idea. Mr. Coffman stated that the idea has significant merit.

Article 51: Amend General By-Law / Stormwater

Mr. Reilly stated that the proposed by-law in the warrant will be amended. Ms. Miller stated that she had remaining questions. The bylaw will apply to building permits in two situations: when there is a demolition and reconstruction or when there are changes to more than 25% of the footprint of the home. Mr. Merson stated that the provisions also apply to parking lots. She stated that it is not clear exactly to whom the terms apply. She stated that it is also not clear whether the requirements are part of the building permit, or who would inspect the work, between the Building Inspector and Public Works. Ms. Fitzpatrick stated that the work would be part of the building permit process, since most permit applications go through DPW engineering who will tell the building department what inspections need to be done. Mr. Reilly stated that he was approached by a resident with significant real estate development experience who stated that there will be significant costs to comply with the restrictions. Mr. Merson stated that it would affect single-family home builders.

Mr. Borrelli stated that he had concerns about an earlier version of the bylaw that would require capturing runoff of the whole building if there was an addition greater than 25% of the current footprint. The provision has been changed so that only new runoff needed to be captured if the footprint were increased by more than 25% but less than 50%. He stated that the cost will be \$2,500-\$4,000 more for new construction under this bylaw. He stated that it is the right thing to do, and most builders are doing this anyway. Ms. Miller asked what would happen if other structures on the property made it impossible to capture the water. Ms. Fitzpatrick stated that the owners could connect to the Town drain if within 100 feet or can pay a fee. Mr. Matthews stated that most builders are doing what is needed to meet the bylaw, but there may be some cost implications. Mr. Merson stated that construction site runoff is a major contributor to the pollution of waterways and needs to be addressed. He stated that the Town also needs to be sure that no sewer drains into the storm drains. Ms. Miller asked where the bylaw addresses construction runoff or illegal sewer draining. Mr. Merson stated that Section 7.5 included provisions. Ms. Miller asked if the rules applied to current permits. Mr. Matthews stated that the bylaw is all prospective, and will apply only to future projects. Ms. Fitzpatrick stated that the main intent to is extend applicability of provisions to residential construction. Mr. Merson stated that they need to think about the whole drainage system town wide. He stated that it is easier to prevent pollution than to clean it later. Ms. Miller asked about enforcement. Ms. Fitzpatrick stated that if the plan includes a system that is not ultimately installed, then the Building Inspector will not grant an occupancy permit.

Ms. Miller asked why the memorandum of understanding (MOU) from 1996 is referenced. Mr. Merson stated that it has not been rescinded and still applies. Mr. Levy asked about financial implications beyond possible fines for noncompliance with NPDES. Ms. Fitzpatrick stated that this will require a sharing of the costs of stormwater between owner, developers and the public, so there is an effect on the Town budget. Mr. Merson stated that it would cost more than \$100 million for the Town to handle all stormwater remediation on its own. He stated that this is a relatively low impact way to address it, and that over time this will reduce the amount of phosphorous in the Town water. Ms. Miller stated that she disagreed, since NPDES requirements regulate the concentration of phosphorus in the runoff, and the runoff from roofs is relatively clean compared to roadway runoff and will no longer dilute the phosphorus in the stormwater. Mr. Reilly noted that this will cost approximately \$4,000 per home to do this. Ms. Fitzpatrick stated that this is the best and cheapest way to do this. Mr. Reilly asked if the measures are aggressive enough. Mr. Matthews stated that as long as there is good faith compliance with NPDES, there should not be a problem.

Mr. Connelly stated that he had two thoughts: first, compliance depends on the regulations, which are not yet known. If the regulations are onerous, this proposal could have a negative financial impact. The financial impact cannot be determined without the regulations and knowing what is required. Once the Town bylaw is voted, some control is lost. Second, additional time is needed for people to learn about the process. Mr. Connelly stated that he is in support of having a bylaw, but not this process. Ms. Fitzpatrick stated that there was one public hearing. Mr. Matthews stated that there was a working group that developed the bylaw, and they tried to do outreach. Mr. Connelly stated that the Town should know, at least initially, what will be asked for.

Mr. Reilly asked what would happen if the bylaw were delayed until the fall. Ms. Fitzpatrick stated that it is needed before then, since the permit is due by October 1. Ms. Miller stated that it would be better to have a generic bylaw as most municipalities have done and to have regulations to address specifics. Mr. Reilly noted that this is inconsistent with Mr. Connelly's comment that seem to indicate that more specifics are needed. Mr. Levy stated that not all costs are defrayed by shifting them to homeowners. Mr. Reilly asked if it would cost more for the Town to address the problem. Mr. Borrelli stated that the \$3K-\$4K system on a home is a better system.

Mr. Reilly stated that the more he heard, the more he felt that the better approach would be to adopt a generic bylaw with specific requirements in regulations, which would allow for more flexibility. Mr. Matthews stated that the public wants to know what the restrictions are upfront. The Town is trying to be in compliance in the least restrictive way. Mr. Merson stated that the consultant who is helping with the permit estimated that it would cost the community about \$275 million over 20 years, and would cost homeowners about \$27 million. He stated that public construction in general is about 40% more expensive than private construction. Mr. Levy asked whether the \$27 million cost to residents would correspond to a \$27 million reduction in costs to the Town. Mr. Merson stated that there is not a 1:1 correspondence, so it would likely amount to a \$27 million plus 40% savings to the Town.

Mr. Reilly stated that a bylaw is clearly needed, but the question is really whether to have a streamlined version with requirements implemented through regulations that could be amended from time to time. Mr. Connelly stated that he couldn't say there is enough information to

determine the financial impact. Mr. Reilly stated that it cannot be measured, but it is clear that there is a financial impact of not having a bylaw. He stated that if the Committee takes no position, it cannot speak at Town Meeting. He stated that he is in favor of a bylaw, though this one limits the Town's ability to address problems compared to a more generic bylaw. He asked if the Special Town Meeting would be after the October 1 permit deadline. Ms. Fitzpatrick stated that it was. Ms. Miller stated that she doubted that the deadline would be a problem if the bylaw were vetted and ready to go for the fall Special Town Meeting. Mr. Coffman stated that the proposed bylaw seems benign, and almost de minimis considering the number of people that would be affected. It is a modest first step, and may mitigate issues for the NPDES permit. Mr. Lunetta noted that the bylaw applies only to new construction and construction that is greater than 25% of the existing footprint, and asked if anything else is affected. Mr. Matthews stated that larger commercial developments are already subject to similar requirements. Mr. Matthews noted that the builders, who will be most affected by this, were at the table during this process. Ms. Miller stated that there should be a bylaw and regulations to implement specifics. She stated there are no enforcement mechanisms for this bylaw.

MOVED: By Mr. Jacob that the Finance Committee recommend adoption of approve the 2018 Annual Town Meeting Warrant Article 51: Amend General By-Law / Stormwater as amended. Mr. Lavery seconded the motion. The motion was approved by a vote of 6-3, with Ms. Miller, Mr. Levy and Mr. Connelly dissenting.

Mr. Reilly commented that the by-law needs work, but moving forward is a good thing.

Article 52: Amend General By-Law Non-Criminal Disposition

Mr. Reilly stated that this article is using standard language to implement fees, and that without it, there is no enforcement mechanism.

MOVED: By Mr. Lunetta that the Finance Committee recommend adoption of approve the 2018 Annual Town Meeting Warrant Article 52: Amend General By-Law Non-Criminal Disposition. Mr. Lavery seconded the motion.

Discussion: Ms. Miller stated that she would vote against the article because of the stormwater regulations that already require a permit. The remedy should be that no final permit is issued at the end of that process, and the fine in this article does not make sense. She is in favor of the vaccination part of the article. Ms. Fitzpatrick stated that the fine for stormwater would apply in situations where there is no permit. Mr. Merson stated that it would allow enforcement of the bylaw for construction activity issues that are not part of the permit.

Vote: The motion was approved by a vote of 8-1, with Ms. Miller dissenting.

Special Town Meeting Warrant Articles

Article 3: Pedestrian Safety Initiative

Ms. Fitzpatrick stated that the study would provide a safety audit. The Traffic Advisory Management Committee has asked to speed up the improvement plan. The state will help with the expenses of the plan. This will allow the Town to take advantage of some state funded

improvements such as flashing signs at crosswalks. Mr. Merson stated that a study like this has not been done before. Mr. Levy asked if it would dovetail with the sidewalk study. Mr. Merson stated that it is not related, and would supplement that work.

MOVED: By Mr. Jacob that the Finance Committee recommend adoption of approve the 2018 Special Town Meeting Warrant Article 3: Pedestrian Safety Initiative. Mr. Levy seconded the motion. The motion was approved by a vote of 9-0.

Article 8: Authorization for Acquisition of Real Property

Mr. Reilly stated that he had contacted Ms. Fitzpatrick about about the space and usage of the area at the pinch point in the parking lot of the public safety building project. Ms. Fitzpatrick stated that that access would be usually used by police to leave the parking lot when there is peak traffic that backs up by the driveway. She stated that an ambulance would use that access to the sally port. Mr. Popper noted that they have a larger space for these purposes now. Mr. Connelly stated that he maintains the same position to the property purchase as he did in the fall. Mr. Reilly stated that the issue is the value to the Town. If it were a \$2 million property that the Town could purchase for \$1 million, it would be a bargain, but would not be an appropriate purchase unless the Town needed the property. In this case, the Town needs the property and the price is not prohibitive. Mr. Connelly stated that using the funds that the Town received due to the Memorandum of Understanding is disingenuous to the agreement; those funds were provided to the Town are a result of a project on a lot of land over 3 miles away due to the impact of development on the area impacted, and were intended to be used for I/I work. This would use 2/3 of those designated funds for a different purpose. He stated further that it is an injustice to taxpayers that the Town is seeking to pay \$1.5 million to buy it when the owner pays taxes on the owner pays taxes on a value of \$525K. He stated that the appraisals are terrible, and that the process has had too many discrepancies and inconsistencies. He stated that purchase this sends out a message that the Selectmen will pay an extreme premium.

Mr. Reilly stated that while he is persuaded that the reasons spelled out in response to the questions posed established that the Town would receive equivalent value for the purchase, he shares the concerns about the source of funds stating that it was disingenuous to say that it lowered the cost to taxpayers . Using the mitigation funds from the MOU reduces the direct costs of the project, but those funds are not then available for other uses.. Ms. Fitzpatrick stated that in the discussions with the developer the I/I work was indicated because it was a known, identified need, and this would also address a known identified need in public safety. Mr. Matthews stated that it is all taxpayers' dollars. He stated that the question is if it is a good value to the Town. He stated that it is the right thing to do. Mr. Levy stated that he feels that the main issue is the pinch point in the design. Ms. Fitzpatrick stated that it is the only configuration that allows for phasing of the project. Without phasing, the project would be more expensive. Mr. Levy asked whether the building would need to be redesigned if the parcel is not purchased. Ms. Fitzpatrick stated that it did not. Mr. Lunetta stated that he would have preferred if the parcel could have been worked into the design. He stated that he would still vote in favor because the ultimate goal is a better project. He stated that this parcel means the completion of a long term goal in this area. He stated to not purchase it because it has come in the 11th hour is shooting ourselves in the foot. Mr. Coffman stated that if the parcel had been available with the other properties, that the Town would have bought it. He stated that the project can happen without the parcel, but it will make a big difference to have it in the long term. Mr. Jacob stated to not purchase the property would be a mistake. The price includes a significant premium, but that often happens when there is one

last property. He would love to pay less, but the purchase is the right move. He will vote in favor.

MOVED: By Mr. Lunetta that the Finance Committee recommend adoption of approve the 2018 Special Town Meeting Warrant Article 8: Authorization for Acquisition of Real Property. Mr. Coffman seconded the motion. The motion was approved by a vote of 7-2, with Mr. Connelly and Ms. Miller dissenting.

Finance Committee Updates

Mr. Reilly proposed that it was premature to comment on the reserve/stabilization funds at Town Meeting, but in the course of his presentation on the FY19 budget, he would discuss the building projects and the impact on the average single-family home tax bill. He stated that he would say that the wind has been at our backs financially in recent years, but the levels of recent revenue growth cannot be expected going forward, particularly new growth. He stated that in the coming years, debt service costs are expected to increase 50% while revenue is expected to increase 23% which is disproportionate. Mr. Reilly stated that he would also mention that 75% of the Town's costs are personnel and that people still need to accept more technological alternatives to personal service.

Adjournment

MOVED: By Ms. Miller that the Finance Committee meeting be adjourned, there being no further business. Mr. Lunetta seconded the motion. The motion was approved by a vote of 9-0 at approximately 9:30 p.m.

Documents: Needham 2018 Annual Town Meeting Warrant; Needham 2018 May Town Meeting Warrant.

Respectfully submitted,

Louise Mizgerd
Staff Analyst