

Board of Selectmen  
January 5, 2012

**January 5, 2012  
Board of Selectmen's Meeting**

Present: First Selectman Gayle Weinstein; Selectman David Muller; Selectman Dennis Tracey; Town Administrator Tom Landry; Administrative Assistant Judy DeVito

**This meeting was recorded and videotaped. Copies are available in the Selectmen's office. The meetings are available online on the Town website.**

**Ms. Weinstein called the meeting to order at 7:30pm**

**Pledge of Allegiance**

**Public comment regarding the proposed changes to the agreements between the Town of Weston and the Nature Conservancy regarding the Lachat property.**

Mr. Tracey said after the last meeting they submitted all the documents as approved by the Board of Selectmen to the Nature Conservancy for their review. The only change of any significance is the endowment fund that is maintained for the purpose of providing income to the Town and the Nature Conservancy to maintain the property, which is being held by the Nature Conservancy as part of their overall endowment. The endowment is hundreds of millions of dollars and this fund is a small portion of that. The overall endowment has thousands of individual endowments for individual projects and properties.

In the original Cooperative Agreement in 1997, the payout each year was 5% of the principal of the endowment fund for maintenance purposes. The Nature Conservancy has requested a change in that language in the new agreements which would say that the payout would be 5% or whatever other percentage the Nature Conservancy used as a matter of policy to pay out all of their endowments. What that means is if they change their overall policy for all of their endowments to be either a 4% payout or a 6% payout or some other number that would apply to our endowment as well. The reason for that is because they cannot and do not want to vary the percentages from endowment to endowment. It is not practical among the thousands of endowments.

Mr. Muller asked if the 5% had been a consistent number. Mr. Tracey said that Mr. Patton said for as long as he could remember, but he did not have the historical data which Mr. Tracey had asked him for. Mr. Muller asked if our agreement was the only agreement that had a stipulated rate. Mr. Tracey said he did not say it was the only one, but he said it was an outlier and they would like to fix it.

If the rate changes, there is no appeal process, the Nature Conservancy will have the ultimate authority as long as it was applied across the board to all endowments. The reason we are in this position is because the Attorney General required that we keep the money in the endowment with the Nature Conservancy and they have control of the funds and the municipality cannot have control of the funds.

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Mr. Muller said that he assumed that this sort of entity was required to payout a certain percentage in order to maintain its nonprofit status.

Ms. Weinstein asked Mr. Tracey if this was something he would be concerned with. He said that he thought it was a relatively low risk because the Nature Conservancy has to treat all funds the same, and that limits any possibility that they will act irrationally or vindictively.

Ms. Connelly asked if they could put something in the agreement that says not less than “x” percent.

Mr. Muller said his understanding of the endowment model is that there is a legal requirement to retention of the endowment status that they payout a certain amount per annum. He understands that that number is 5%. Mr. Tracey said he would ask that question. He said there were other language questions that they raised which he does not expect to create significant issues.

Mr. Muller moved that the Board of Selectmen authorize Selectman Dennis Tracey to negotiate changes to the amendment of the cooperative agreement to reflect that the level of payments from the endowment fund may not be reduced arbitrarily or in bad faith. Ms. Weinstein seconded and the vote was Mr. Muller, Ms. Weinstein yes. Mr. Tracey abstained.

**Discussion/decision regarding the transfer of property within the reconfigured cul de sac on Oak Lane, from the Town of Weston to owners of adjacent land on Oak Lane – Ken Whitman.** Mr. Whitman said one of the adjacent owners of the former cul de sac on Oak Lane is Mr. Ganz. Mr. Ganz asked him why the property from the temporary cul-de-sac had not been incorporated into his property. He looked into it, and while there were previous documents to suggest that it was the intention of the Town to do so, it had not been done.

Ms. Weinstein said that in conversations that she had with Mr. Ganz, former First Selectman George Guidera had agreed to divide up parcels of a cul de sac in exchange for continuing the road which is now Grey Fox Lane. In the maps that we have, it looks like that was what the proposal was. They have checked through the Board of Selectmen minutes, and as far as she can tell they never discussed this. She has not spoken to former First Selectman George Guidera as of yet.

Mr. Tracey asked if there was a written agreement with the Town where the Town would transfer the cul de sac pieces to homeowners on the street or was that just an understanding. Mr. Ganz said there was the letter dated January 1994. The subdivision of Grey Fox was done in 1993-1994 time frame. Ms. Weinstein said there is no binding legal agreement to transfer the pieces to the homeowners; That is why she wanted to start the discussion to see if we would want to pursue this. Any decision like this not only would have gone to the Board of Selectmen but would have to go through the Town Meeting and the Planning and Zoning 8-24 process. None of that ever transpired.

Mr. Ganz said one property is already in conformance to the 2 acre zoning requirements; Mr. Ganz and the Chadwicks property need the property from the Town to become compliant. Ms. Weinstein said another glitch with the Ganz's property which was not part of the discussions or agreements but apparently, according to the tax records even if we made the land transfer he would still be off by .002 acre. That is another sliver that Mr. Ganz is asking the Town to potentially consider the transfer of as well, so his property becomes 2.0 acres.

Mr. Ganz said in the conversations that were had with Mr. Guidera, Mr. Patton, Mr. Reid, himself and the Chadwicks, they agreed in order for them to get to the 2 acres they would agree with the continuation of the road. Mr. Tracey said when you bought the property from People's Bank that was specifically with the understanding that you would have the cul de sac to make up the full 2 acres because it would make no sense to buy that property. He asked was it your understanding that when you bought that property you would also be getting the cul de sac. Mr. Ganz said yes. He did not know if there were legal documents prior to that in 1968 when they created Rolling Hill where it might have stated back then that the cul de sac would be broken up and parcels a, b and c would be divided out to the three property owner. Mr. Whitman said he did not see that but he was not specifically looking for that type of documents.

Mr. Weinstein asked Mr. Whitman if in his opinion this was something that was valid for the Town to pursue based on his research and what he has seen. Mr. Whitman said yes. Mr. Muller said that if this can be made to work in the spirit of the agreement, and if the Town did not do something that it had agreed to do, then it is up to this Board to remedy that, assuming that the other bodies in Town go along with it.

Ms. Weinstein said she would have a conversation with George Guidera and see if he has any recollection of what transpired, bring that information back to our next meeting and she will speak to Town Attorney to figure out exactly what the process needs to be.

**Discussion/decision regarding the reappointment of Lynn Pokorny as Weston's Infection Control Officer for a term to expire June 30, 2015-** Lynn Pokorny said the Infection Control Officer is responsible to implement all written policies and standard operating procedures that pertain specifically to infection control, immunizations, education and exposure follow-up. She is also responsible for keeping track of the records for infection control specifically and that needs to be maintained for 30 years. She is the liaison with the Fire Department, Occupational Health, Local Hospitals Infection Control Officers and with Westport/Weston Health District.

Mr. Tracey moved to reappoint Lynn Pokorny as Weston's Infection Control Officer for a term to expire June 30, 2015. Mr. Muller seconded and the motion passed unanimously.

**Discussion/decision regarding the appointment of Marilyn Parker to fill the vacancy (Ken Edgar) as an alternate on the Zoning Board of Appeals for a term to expire November 12, 2013.** Marilyn said she has been a Weston resident for almost 20 years

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and has served on the Tax Assessment Appeals and the Library Board and is very interested in things that could happen in the Town. She said someone needs to be there, even as an alternate, to look at each case individually and make sure that the character and history of Weston is preserved but also that the needs of families are being addressed. Ms. Weinstein asked if she had spoken to any of the members on the Board to see what goes on. Ms. Parker said she got to know the process and the people very well during the campaign of last October and did research to understand the current issues that are at hand in Weston.

Mr. Muller moved to appoint Marilyn Parker to fill the vacancy as an alternate on the Zoning Board of Appeals for a term to expire November 12, 2013. Mr. Tracey seconded and the motion passed unanimously.

**Discussion/decision regarding the appointment Lori Pace to fill the vacancy on the Weston Sustainability Committee for a term to expire December 31, 2012.** Lori said that she is interested in helping Weston become greener and also interested in the Lachat property. She wants to help people in the Town learn about recycling and all the issues that the committee works on. She has been a member of GVI and participated in other things.

Mr. Tracey moved to appoint Lori Pace to fill a vacancy on Weston's Sustainability Committee for a term to expire December 31, 2012. Mr. Muller seconded and the motion passed unanimously.

**Discussion/decision regarding a supplemental appropriation for \$17,000 for Building Department software.** Sharon Shattuck, IT Director, said they bought Building Department software in 2004 and they were notified a year ago that the company was going to go out of business. They did go out of business and left us with a program that can't be supported. They have had trouble finding a company that would convert our data to their program and we cannot lose seven years of data. They looked at different companies and found a company SCA whose program will work with Vision software and when the building inspector does his work, it will convert into Vision so all departments can share information. It will also work with any GIS program that we purchase. SCA has converted three other Towns that use Black Bear software, which is what we currently use. Mr. Gleason was thrilled with what they offered. Right now they will purchase one tablet to use the software in the field and see how it goes. Ms. Weinstein asked if Sharon had checked the references. She had checked the one in Connecticut which was very good, and the other never called her back.

Mr. Muller moved to approve a supplemental appropriation for \$17,700 for Building Department software and to forward the request onto the Board of Finance. Mr. Tracey seconded and the motion passed unanimously.

**Discussion/decision regarding adopting policies and procedures for the Town's Government Access Channel- Don Saltzman and Harvey Bellin**

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Ms. Weinstein said that Ms. Sullivan okayed the changes that Mr. Tracey had made. She made the change that WGATV Administrators may be appealed by Weston's First Selectman or designee. She had forwarded all the documents for Ms. Sullivan to review and she said that we should have any non-governmental organizations sign an acknowledgement that they read and agreed to the policies and procedures prior to the broadcast. We have to get that in place. Ms. Weinstein said that she would send what they had to Ms. Sullivan to make sure that she approved.

Mr. Saltzman said he had a meeting with DPUC and they were very firm to remind him that no censorship is allowed under the first amendment. Things that come in from the outside will be vetted; However, they cannot censor. Mr. Saltzman said the Town should have an errors and omissions policy. Mr. Landry said we don't have a broadcast errors and omission policy but we do have an errors and omissions policy. Mr. Tracey said the additional paragraph which includes the legal protections for the Town has to be in whatever is signed by the outside source. Add that to the policy if that is what is going to be signed. Mr. Muller said that he did not think you needed a separate document, you just needed an acknowledgement statement.

Mr. Bellin will email the document to Ms. DeVito who will incorporate the changes and email it to the Selectmen.

**Discussion/decision regarding the reappointment of Joan Rizzi-Henderson on the Library Board for a term to expire December 31, 2015.** Ms. Weinstein said that Ms. Henderson could not attend since she had been ill. She has known Ms. Henderson for a lot of years and she has done a fantastic job on the Library Board and she wishes to continue her service. She asked the Board to override the decision that was made a couple of years ago and reappoint her without her being present tonight.

Mr. Muller moved to reappoint Joan Rizzi-Henderson to the Library Board for a term to expire December 31, 2015. Mr. Tracey seconded and the motion passed unanimously.

**Discussion/decision regarding formation and mission of the Legal Review Committee.** In their packets, the Selectmen had a copy of the report that the last Legal Review Committee did and the Mission Statement. Ms. Weinstein said she prefers Committees of five. The reason that the first committee was seven was because they were concerned about the work load.

Mr. Tracey said that seven worked well. They had six lawyers and they assigned them into three teams and each team reviewed certain cases and contracts and the non-lawyer was primarily for the assessment of the cost and fees and comparison with other Towns. Seven worked well but he does not like committees that are too big so he would be comfortable with five. Mr. Muller said that was fine.

After some discussion about the term of the committee, and the previous Mission Statement, it was decided to put something into the Mission Statement about billing. Mr. Tracey said the committee should look at billing to see whether there is a way to align the

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interest of the Town and the Town Attorney together in resolving things expeditiously rather than paying by the hour.

Mr. Tracey said we should ask ourselves whether the Town followed the recommendations of the prior committee, and if not, whether there were reasons not to. Ms. Weinstein said we did follow through with some of the recommendations and some we did not. She said that the Committee's review would include an assessment of the Town's adoption of the prior committee's recommendations.

We will advertise for members for the committee and bring the Mission Statement to the next Board of Selectmen's meeting to be finalized.

**Update regarding Grey Fox Lane road acceptance-** Ms. Weinstein said we have a letter from John Conte stating that the surveyor did install all the monuments and the road has met all the specification for a Town road and the deed has been recorded.

## **Open Items**

### **Updates**

**Grants- Gayle Weinstein-** No new news

**Emergency Preparedness-** Volunteer coalition is still working on determining what the requirements should be and how they will go about getting that out to the organizations that make up the volunteer coalition in terms of what their role could be for emergency preparedness

**Discussion/approval of the minutes of the Board of Selectmen's meeting of December 14, 2011.** Mr. Muller moved to approve the Board of Selectmen's meeting minutes for the meeting of December 14, 2011. Mr. Tracey seconded and the motion passed unanimously.

At 9:10pm Mr. Muller moved to enter into executive session. Mr. Tracey seconded and the motion passed unanimously.

### **Executive Session- Potential Litigation- Contractual issues Revson Field**

**ATTENDANCE:** The meeting was convened at 9:17 pm in the First Selectman's Office by Chairman Weinstein, with Selectmen Muller and Tracey present. Also in attendance was Town Administrator Landry.

**DISCUSSION:** The meeting was called to inform Selectmen of the status of the Revson project. This included the impact on pursuing project completion with this vendor, as well as how it might strategically position the Town to respond to, or initiate formal legal action.

No votes were taken.

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ADJOURN EXECUTIVE SESSION: At 9:38 pm, a motion (David Muller, Dennis Tracey second) to adjourn executive session and resume in open session passed unanimously.

ADJOURN: At 9:39 pm, a motion to adjourn (Dennis Tracey, David Muller second) passed by unanimous vote.

Respectfully submitted

Judy M. DeVito  
Administrative Assistant  
Approved 2/2/12