

## **REPORT OF THE TOWN COUNSEL (F/Y 2013)**

Land use, including the potential for land acquisitions, continued to be a primary focus of attention during the year. In the latter category, the Town is positioned to proceed with its due diligence of the property at 900 Worcester Street, upon receipt of notification from the Roman Catholic Archdiocese of Boston, owner of the site, that the church appeals, still in process, have been completely resolved. The Town and the Archdiocese have deferred any substantial due diligence activity until the appeals have cleared.

The second possible land acquisition matter, focused on the most-westerly portion of the Cochituate Aqueduct, (extending from the Weir and the structure that houses it south of Worcester Street and extending to the Natick town line), is being pursued through discussions with the State's Division of Capital Asset Management and Maintenance, currently the custodian of this land. Representative Peisch has been extremely helpful in assisting the Town in that matter and two Home Rule Petitions voted by separate Town Meetings have now been enacted, thanks to her efforts on behalf of the Town.

The Town has completed its acquisition of three parcels to the north of Seaver Street, previously viewed by the Town as "owners unknown". The owners have been located, and deeds have been signed by all of them, including the eleven grandchildren of the prior owners, Melvin L. and Mildred B. Morse of two of these lots, and by Babson College, owner of the third. All these owners have generously gifted their interests to the Town. These parcels are now held as general assets of the Town under the jurisdiction of the Board of Selectmen.

Land use activity included the following. Assistance was given in reviewing further development stages of the Wellesley Inn property. The affordable housing project on Washington Street continued to be monitored, which finally did become eligible for certificates of occupancy. The bond filed with the Town by the private developer at 978 Worcester Street, to secure the developer's obligation under the inclusionary zoning bylaw, was called by the Planning Board. That property continued to receive considerable attention in the land uses being proposed. Nearby, at 990 Worcester Street, development issues, concerning traffic at the site and also, in a lawsuit brought by neighbors to the North, alleged traffic issues in that neighborhood were reviewed and related litigation resolved.

Another zoning appeal in Superior Court concerning the approval granted by the Zoning Board of Appeals for 23 Thomas Road was filed, which matter remains pending. The perennial issues at 139 Linden Street continued to be reviewed, and the terms of the Comprehensive Permit for that site discussed with the developer once again. Assistance was given in further issues raised under the Development Agreement for Linden Square, and especially assisting the Executive Director in his management and vision for current and future use of what is now an automobile dealership on the south side of that site.

Assistance was also given in managing, reviewing and permitting town projects, including the MLP Administration Project, especially the pace of the construction work ongoing there, and on the DPW Building Project. Assistance was given as the Board of Selectmen and

Council on Aging parsed out the advantages and disadvantages of placing a new Center, now being called the Tolles-Parsons Center, at the site on Washington Street formerly owned by the American Legion, or alternatively on land owned by the private non-profit Wellesley Community Center in Wellesley Hills.

Among other matters in litigation, two legal actions brought against the Town by a former Business Manager in the School Department, essentially contesting her discharge, were managed through the Town's Risk Management Program in a very able manner by Leonard Kesten, Esq. And, perhaps among the most intriguing matters in litigation was the Town being named a defendant in an action brought in a Pennsylvania Court seeking payment on a purchase order executed by the Department of Public Works. The former actions remain pending. The latter has been resolved and dismissed. All matters pending before the Housing Appeals Committee on the developer's appeals of the requirements of the Zoning Board of Appeals concerning Wellesley Commons c. 40B have resolved except for the question of whether the developer has complied with the Zoning Board of Appeals' requirement for funding the Condominium Associations' reserve account at the end of the year.

Advice was given in a wide variety of other matters, including on implementation of Dr. Jackson's bequest/gift to the Town; in drafting employment contracts; in managing complaints of illegal discharge of water; attention was given to proposed changes to the Town bylaws; actions were taken to complete required street takings and betterments.

Assistance was given in the general area of licensing, including the efforts of the Board of Selectmen to regulate the sale of food by mobile food vendors; and licensing discreet portions of public sidewalks to common victuallers, particularly to effect the Town's policy to encouraging more foot traffic in Wellesley Square. Advice was given as the Town worked to develop a policy on encroachments, such as where, over the years, some private property owners have built, intentionally or inadvertently, an extension of their land and sometimes their structures onto town property; action was initiated in some of those, but there is ample more to be addressed in future. Assistance was given to the Planning Board in presenting to Town Meeting with a proposed moratorium on regulating marijuana dispensaries, which will be brought back to Town Meeting when town officials have become more informed on the subject. Citizens' petitions were reviewed; residency questions, particularly important to students in the school system were reviewed; and advice was given on the management of the incident at Morses Pond. Advice was given on the procedure for resuming a continuation of hearing sessions on before a Town Board. The Chief of Police was assisted on the prospect of gaining enforcement authority on traffic control issues on private property.

As before, requests continued to be responded to on the Conflict of Interest Law, the Uniform Procurement Law, the Open Meeting Law and Public Records Law. Records and witness subpoenas were attended to. All sessions of the Annual and Special Town Meetings were prepared for and attended, as were almost all sessions of the Board of Selectmen's weekly meetings. Meetings of other boards were attended when requested.

The Town continues to be ably represented specially by Morgan, Brown and Joy, the Town's Labor Counsel and other special counsel in education matters and regulatory matters involving the Municipal Light Plant.

More detailed reports are contained in the monthly reports of the Town Counsel, which remain available for public inspection.

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