

Approved April 8, 2019

**Advisory Committee Meeting
Juliani Room, Wellesley Town Hall
Wednesday, February 13, 2018, 7:00 p.m.**

Those present from the Advisory Committee included Jane Andrews, Julie Bryan, Todd Cook, Rose Mary Donahue, Bob Furlong, Mary Gard, Bill Maynard, Paul Merry, Dave Murphy, Betsy Roberti, Mary Scanlon and Andrea Ward.

Todd Cook called the meeting to order at 7:00 p.m.

7:00 p.m. Citizen Speak

There was no one present for Citizen Speak.

7:05 p.m. HR Board re: Proposed Bylaw Change (ATM Warrant Article 35)

John Hussey, Chair, Human Resources (HR) Board and Scott Szczebak, Director, HR were present.

After input from key stakeholders and consultation with BOS and Town Counsel, the proposed changes to General Bylaw 30.10 were approved by HR Board last week and circulated.

As explained during HR Board's December 5 presentation to Advisory, changes are needed. Some policies haven't been updated since 1971; employment law and personnel regulations are changing too fast to review and update once a year. HR Board is made up of experienced professionals who are supported by the HR Department and Town Counsel; huge depth of knowledge.

Bylaw changes would allow HR Board (not Town Meeting) to make policy changes; HR Board could bring bylaws into compliance in timely/responsible manner. Updating will not happen all at once; probably one or two per month. Will provide additional transparency and be more responsive to day-to-day responsibilities and realities of Wellesley's work force.

A question was asked why employees of the School Committee and Municipal Light Board are exempt: Both of these departments operate under a separate Massachusetts General Law. A follow-up question was asked whether these departments are updating their policies as frequently as the HR Board will update the other policies: It is believed that the School Committee updates policies, but not certain about the Municipal Light Board.

A question was asked whether, since the new bylaw no longer refers to the personnel policies as applying to "non-union" employees, the new bylaw is therefore broader in applicability and what the practical implications are: All collective bargaining agreements have precedence of law in the contract. The collective bargaining agreement takes precedence over Town bylaws if the contract has language about a particular policy or procedure, but if the collective bargaining agreement is silent, then the Town bylaws are followed. There is no practical expansion of the revised bylaw since all Town contracts incorporate the bylaws.

A question was asked about what specifically "human resource policies" apply to, since it is not a defined term.

A question was asked how Town departments/employees will be apprised of changes: HR offers trainings (department heads and employees) so that when the new policies are in place HR will make sure

the information gets out to everyone. Currently HR sends out new laws when enacted and department heads sign off when they have read the information.

A question was asked if the HR Board takes the approach that the policies apply to all employees equally in all cases (e.g., with marijuana, the Police might have a different, more stringent approach regarding the use of any drugs): Generally, policies will apply across all departments. The Police may have language in their contract about drug testing (e.g., more restrictive). If a policy is more restrictive in a contract, then the contract provisions will apply. If the contract is silent, then the policy will apply.

A comment was made that the change to the bylaw is not changing the scope of the bylaw; it is just a procedural change so the HR Board doesn't have to wait until Town Meeting (TM) to approve policy changes.

A question was asked how changes will be presented and discussed: Proposed changes will be posted on the Town website. All Town boards, committees and department heads will be notified. There will be a 21-day period for comments. There will be a public hearing of the HR Board before any action is taken. Common sense approach. All stakeholders will be taken into consideration for major changes.

Examples were presented regarding outdated policies, conflicting policies and areas that need new policies.

A question was asked if there is a provision in the bylaw to describe the scope of the policies: There is nothing that defines scope. Salary and classification plans are in another article and subject to Town Meeting approval.

A comment was made that the bylaw has evolved since December in terms of who is provided notice and the length of the comment period, and that these are good changes. HR was thanked for their work on this.

A question was asked about whether HR had considered examining the problem of smaller departments that have difficulty getting raises for some long-term part-time employees: HR periodically reviews the general wage schedule to make sure that employees are classified properly. HR is moving towards proper classification of some of those positions. Some positions will not be moved but some would be better off not classified on that scale.

7:20 p.m. Planning Board re: ATM Warrant Articles

Catherine Johnson, Chair, Planning Board; Victor Panak, Interim Planning Director; and James Roberti, Planning Board, were present.

An overview and highlights of each of the six ATM articles sponsored by the Planning Board were presented:

Article 29 – Zoning Bylaw Renumbering, Rearrangement, and Correction

- Article 29 is a common sense article; incorporates the renumbering of all pages of the Zoning Bylaw with Arabic numbers instead of Roman numerals
- The purpose of the change is to modernize, improve ease of use, organize consistently and match Town General Bylaws and most benchmark town bylaws
- This change would be the first step in “Initiative 2025” – the plan to re-codify the Zoning Bylaw by the 100th anniversary of the adoption of zoning in Town.

As an example, the current and proposed versions of the Single Residence District provision were presented to show the renumbering and small grammatical/organizational changes that would occur, but no changes in substance.

A question was asked how the reading of the motion for this article would be handled at Annual Town Meeting (ATM): Planning will ask the Moderator to waive the reading of the motion. A follow-up comment was made that Town Meeting Members (TMMs) should be able to see all the changes in totality.

A further question was asked whether there will be a “tracked changes” version of the Zoning Bylaw as the basis for the motion so that people can see what is changed and re-worded: Yes, that will be online shortly and a paper version will be handed to the Moderator. Planning will let Advisory know when it is available.

Article 30 – Section 1. General Provisions

- Currently, the Zoning Bylaw has no “general provisions” or “rules of the road”
- This new section would include the preamble and three sections that are currently elsewhere at the end of the Zoning Bylaw (Sections 26, 27 and 28)

A comment was made that the proposed changes will be eliminating/reducing enumeration of certain items and substituting references to the Massachusetts General Laws (MGL), which may do a disservice to citizens, who may not be familiar with the MGL: Planning did consider this, but feels that tracking of Zoning Bylaw to the MGL allows Town to stay consistent/in compliance; otherwise, would have to continually update the Zoning Bylaw or be out of compliance. In addition, many procedures are enumerated on Planning’s website, or the Board of Selectmen (BOS) could put them on their website.

There was a comment that sometimes, when state law changes, it’s not bad to have to update our own bylaws to shed light on those changes.

A comment was made that, for statutes commonly referred to by citizens, the state posts a simplified list of what is required; the suggestion was made that perhaps Planning can prepare something similar for zoning matters: That is a very good idea; not sure that items tucked into the Zoning Bylaw are accessible anyway; also, as a general matter, proponents of citizen petitions will coordinate with Planning on timing and the steps that need to be taken.

A comment was made that many TMMs do not have a clear understanding of why multi-year changes are needed to the Zoning Bylaw: Planning will explain this at ATM. Zoning Bylaw right now is both wonderful and terrible; some archaic language; sometimes poor organization. Planning wants to make sure Zoning Bylaw is clear and relatively easy to follow. A follow-up question was asked whether these changes are not so much changes in content as changes for clarification and consolidation in an easier and more manageable format: Yes; clarity leads to better enforcement.

A suggestion was made that it might be beneficial to put keywords near the headings of the various sections to make it easier to locate topics.

A comment was made that the restatement of current Section XXVIII (28) (“Invalidity”) in the General Provisions seems to have eliminated the reference to the Zoning Map: The Zoning map is not separate from the Zoning Bylaw, it’s part of it. A suggestion was made to identify and explain to TMMs where changes were made and why.

A question was asked about when the changes would become effective if ATM approves them: If approved by ATM, the changes would then be sent to the Attorney General's office for review and approval. This could take until July or August. Once approved by the Attorney General, the changes become effective as of the date of ATM's approval.

A comment was made that there are two different sets of tracked changes at issue, one for Article 29 (renumbering) and one for Article 30, and a question as to how all the changes will be shown: Planning is working with Town Counsel on this.

Article 31- Off-Street Parking

Changes to these provisions will be done in two phases. First phase (this year) is to clean up the language; not tackling the technical regulations. The second phase for changes addressing specific parking requirements would take one to two years, perhaps beginning with 2020 or 2021 ATM.

A brief example was given that in the general provisions in the current bylaw, there is a section that has to do with administration, not general provisions; when information is in the wrong section, developers and staff can't find it. Other sections in the bylaw are in the wrong place or conflict with each other. For example, procedures regarding submission of parking plans are unclear/confusing. The major purpose of this article is to help staff and applicants in administering the off-street parking bylaw. Off-street parking rules do not apply to individual houses, only to large buildings.

Planning was encouraged to show the changes made, with a redlined version and/or bullet point summary. A comment was made that there is always suspicion on Town Meeting floor about parking standards and therefore Planning needs to show where the changes are and be prepared for questions at ATM.

Article 32 – Outdoor Lighting

- Codifies within one bylaw current permitting practices (combines various bylaw sections into one bylaw)
- Used primarily by the Planning Department and Board, applicants for project or site plan approval (lighting engineers, architects, etc.), Design Review Board, Zoning Board of Appeals
- Provides technical standards for permitting
- Establishes special permit process for deviations from the standards
- Does NOT apply to residential lighting; only “major” and “minor” projects
- Town's three most recent building projects (Tolles Parsons Center (TPC) and Fiske and Schofield renovations) comply with the requirements

A question was asked whether the prior concerns of the Colleges (Babson and Wellesley) have all been addressed: Yes, the Colleges did not raise any concerns this year; the 1,000-foot rule works for them. A follow-up question was asked whether Planning had actively reached out to the Colleges to see if they had any comments: Yes, Planning reached out to everyone.

A question was asked as to who would be the deciding authority as to whether someone is in compliance with the standards (e.g., “glare”), and would it be the Building Inspector: Yes; in addition, normally the Planning staff has a walk-through of a major project before a certificate of occupancy is issued. At that point it can be noted if the lighting is wrong.

A concern was raised about enforcement beyond the initial approval stage and if changes are made to a project, who would be enforcing the lighting provisions: Just like any other bylaw, it would be the responsibility of the Building Inspector and the Building Department to identify when that happens. Planning also relies on residents to file zoning enforcement requests. These will be major projects and Town-owned projects. A follow-up question was raised as to whether the Town is geared up to do this kind of enforcement: Yes, because these are major development projects (e.g., 900 Worcester Street, Belclare).

A question was asked if there are instruments to measure lumen levels: It is difficult to measure because lumens are measured from the ground but they radiate 360 degrees; light might be at eye level but it is not measured at that level.

Article 33 – Zoning Map Corrections – Phase 3

- The goal of this article is to continue to amend the Zoning Map to resolve discrepancies discovered by staff
- Phase 1 corrected 9 errors at the 2017 ATM and Phase 2 corrected 14 errors at the 2018 ATM
- These discrepancies resulted from the switch from a physical map format to digital map format in 2002; ATM adopted the map with the unrecognized errors in 2003
- Any changes to the Zoning Map need ATM approval even if the change is going back to the original zoning

Article 33 will correct two errors by doing something other than prior ATM action:

- 36 Pleasant Street: Map shows property split between Single and General Residence districts, which border the property on either side. Property originally zoned General Residence in 1925; currently used as a single-family home; owners have no plans to convert to a two-family home; with input from owner and abutters, Planning proposing to rezone to Single Residence District

A question was asked whether the owners of this property have been notified: Yes, they were notified last year, when Planning originally intended to bring this correction; they are comfortable with Single Residence District and the neighbors also support this.

A question was asked as to the basis for the change, particularly if the owners want to sell the property: This was reviewed in the zoning public hearing. The neighbors came in and requested Single Residence District and the owners have said they plan to keep the home as a single family dwelling in the future. Planning will be looking at the General Residence District in future recodifications of the Zoning Bylaw; development in that district is confusing. A future owner could seek to change the zoning back to General Residence.

- Winding River Road properties: There are five properties bordering the Charles River in the southwest corner of Town; essentially unbuildable. Currently four of these properties are in the Single Residence 20,000 Square Foot district but they were previously zoned into the Single Residence 40,000 Square Foot district; proposal is to put them back in that. The fifth property, owned by the Needham Conservation Council, will be zoned to the Parks, Recreation and Conservation district. Planning has spoken with the owners of the properties, who support this rezoning (as opposed to being placed in Parks, Recreation and Conservation district).

A question was asked if the four properties are owned by Needham residents: Yes, there is no structure on the lots in Wellesley; the residents' houses are in Needham. An additional question was asked if these

are conforming lots and whether they could be built on: No, these lots have no frontage/access; impetus for this rezoning is that there is no other Single Residence 20,000 Square Foot zoning in that part of Town.

Article 34 – Rezoning of 999 Worcester Street

- Currently the property is split between Business District and Single Residence 10,000 Square Foot districts
- Commercial use has been allowed by an obsolete form of zoning relief (“use variance”)
- Rezoning resolves confusion of split-zoning and will allow commercial use to continue

A question was asked as to why 5 Overbrook, which appears to be split-zoned, as well, is not being addressed: Impetus for this change is the inability of the 999 Worcester owners to obtain use variances any more per state law; 5 Overbrook was not subject to a use variance; the only way for commercial activity to continue at 999 Worcester is to rezone.

There was a discussion about General Residence District zoning and the number of properties impacted.

The Planning Board was asked to give its views on Article 37, the Citizen Petition regarding Dexter Road/Wellesley Avenue rezoning.

Article 37 – Citizen Petition to Rezone Properties on Dexter Road/Wellesley Avenue

There was a public hearing in the summer, and the Planning Board also discussed this at its public hearing last week. The Planning Board is unanimous in supporting the citizen petition. Planning identified a couple of main issues, including the surrounding neighborhood and neighborhood character composed of modest single-family homes. It is a homogeneous neighborhood. If someone wants to build a duplex, it is essentially unregulated. Duplexes being built in Town are huge and valued at well over \$1 million. If someone builds a single-family home, the neighborhood is protected by the large house review process; this not the case with duplexes, for which there is no review.

A comment was made that if the Planning Board is talking about updating the Zoning Bylaw, regulation of duplexes/General Residence District is a gap that should be addressed.

In addition, of the properties involved, only 7 Dexter Road, 8 Dexter Road and 25 Wellesley Ave. are large enough to build a duplex on (need 5,000 square feet per dwelling unit). The properties also abut Fuller Brook so they are in wetlands. There was the realization that if the houses were left the way they are, it would be more relevant to solving affordable housing.

A question was asked on the affordability component: A single family home in that neighborhood is around \$1 million. A follow-up comment was made that an expanded house on that lot would not be affordable: It is not affordable as in a 40B but is in the gap range between a 40B and a larger home. Planning looked at new construction of duplexes in recent years in the General Residence District (Linden/Curve/Hollis/Westerly) and found that each side of duplex sold for around \$1.4 million to \$1.5 million.

A question was asked as to how to resolve the fact that the people who bought the property bought it believing they could build a duplex. An additional question was asked whether the owners of the property would be successful should they decide to litigate against the Town: The owners have not submitted plans or pulled a building permit; they will be subject to the zoning at the time they pull a

building permit; changes are made to zoning all the time. A comment was made, although that may be true, the petition appears to be in direct response to development, which shifts things.

A question was asked whether Planning intends to do more regulation of duplexes: Yes, as the Zoning Bylaw is addressed, would like to tackle the General Residence District; would like to do inclusionary zoning; perhaps allow three units (build two and make the third affordable) as well as accessory uses (in-law apartments).

A question was asked whether the Planning Board voted on the Citizen Petition: Planning voted 5 to 0 in support of the Citizen Petition; will appear in Planning Board Report that goes in the back of the Advisory Report.

A comment was made that it would be hard for Planning to put forward the Pleasant Street zoning correction if it didn't support the Citizen Petition. A further comment was made that spot zoning is assiduously avoided.

A comment was made that it is assumed that if the Citizen Petition passes, the owner could always petition to change the zoning back to General Residence District in a few years.

8:41 p.m. Discussion and Voting on ATM Warrant Articles

Article 13 – No anticipated increases in water rates from the MWRA. The warrant shows \$420,000 higher than the actually needed now that the bids for the water meter installation project have come in lower than anticipated (\$400,000 for the project and \$20,000 in the related emergency fund).

Article 13 (Water Program)

Andrea Ward made and Julie Bryan seconded a motion for favorable action on Warrant Article 13, as proposed by the Board of Public Works, to see if the Town will vote to appropriate the sum of \$8,635,934.00 (EIGHT MILLION SIX HUNDRED THIRTY-FIVE THOUSAND NINE HUNDRED THIRTY-FOUR DOLLARS) to be raised from the sources set forth in the Motion for the 2019 ATM, to be expended under the direction of the Board of Public Works for the purposes of operating and managing the Water Program. The motion was approved unanimously, 11 to 0.

Article 16 (Community Preservation Act appropriations)

Andrea Ward made and Rose Mary Donahue seconded a motion for favorable action under Article 16, as proposed by the Community Preservation Committee (CPC), to see if the Town will vote to appropriate \$65,000 for administrative purposes, \$165,000 to the Historic Resources Reserve fund, and \$165,000 to the Community Housing Reserve fund. The motion was approved unanimously, 11 to 0.

Andrea Ward made and Paul Merry seconded a motion for favorable action under Article 16, as proposed by the CPC, to see if the Town will vote to appropriate \$21,500 from the Historic Resources Reserve to the Wellesley Free Library for digitization of historic maps. The motion was approved unanimously, 11 to 0.

Andrea Ward made and Paul Merry seconded a motion for favorable action under Article 16, as proposed by the CPC, to see if the Town will vote to appropriate \$30,000 from the Open Space Reserve to the Natural Resources Commission for the restoration of Church Park. The motion was approved unanimously, 11 to 0.

Andrea Ward made and Paul Merry seconded a motion for favorable action under Article 16, as proposed by the CPC, to see if the Town will vote to appropriate \$91,000 from the Open Space Reserve to the Natural Resources Commission for Phase II of the reconstruction of the Duck Pond Bridge. The motion was approved unanimously, 11 to 0.

Andrea Ward made and Rose Mary Donahue seconded a motion for favorable action under Article 16, as proposed by the CPC, to see if the Town will vote to appropriate \$150,000 from the Open Space Reserve to the Natural Resources Commission for Phase I of Morses Pond Erosion Mitigation. The motion was approved unanimously, 11 to 0.

8:50 p.m. Minutes Approval/Liaison Reports/Administrative Matters

Andrea Ward made and Jane Andrews seconded a motion to approve the January 23, 2019 minutes. The motion passed unanimously.

Planning/Dave Murphy

- Developer for the Delanson Circle and 148 Weston Road projects came to the BOS this week and talked about where they stand on the development agreement
- Still many questions, but progress being made
- Developer represented that it is buying the contiguous property on Weston Road, but there is no signed P&S yet
- Developers will need to come back to the BOS with additional information
- Neighborhood association is largely in favor of the new approach but would like to see more specificity from the developer on issues like timing and Hollis Street improvements

A question was asked whether the property to be acquired at 140 Weston Road would go to the Town from a life estate: Yes, trying to negotiate that.

BOS/Andrea Ward

- Currently the FY20 budget is out of balance by about \$500,000
- However, there is excellent news on health insurance, with an anticipated surplus in the range of \$1 million. Many more people are choosing the high deductible plan. This suggests not only that there will be a big turnback in health insurance for FY19 but also that the assumptions for FY20 might be too conservative. At February 27th Advisory meeting, the Executive Director will give Town-wide financial update.

There was a general discussion about health insurance, Proposition 2 ½ and budget guidelines.

There was a discussion about the Article 8 write-up.

9:00 p.m. Adjourn

Rose Mary Donahue made and Dave Murphy seconded a motion to adjourn. The motion passed unanimously.

Items Reviewed During the Meeting

- Proposed Change to General Bylaw 30.10 (HR Board)
- *Planning Board, Articles Proposing Amendments to the Zoning Bylaw or Zoning Map, Power Point Presentation, February 13, 2019*