

Approved February 28, 2023

**Advisory Committee Meeting  
Zoom Video Conference  
Wednesday, February 22, 2023, 7:00 p.m.**

Those present from Advisory Committee included Shawn Baker, Doug Smith, Madison Riley, Rani Elwy, Gail Sullivan, Bill Schaffler, Pete Pedersen, Al Ferrer, Jenn Fallon, Christina Dougherty, Wendy Paul, Susan Clapham, Neal Goins, and Andrea Ward.

Chair Shawn Baker called the meeting to order at 7:00 pm and Vice Chair Doug Smith took roll call of Advisory members in attendance.

**Citizen Speak**

There was no one present for Citizen Speak.

**Town Counsel**

Tom Harrington, Town Counsel was present and provided an overview of the Open Meeting Law (OML); email communication; and how to avoid violations of the Open Meeting Law with emails. The Advisory Committee can deliberate only at a posted meeting. A deliberation is defined as oral or written communication through any medium, including electronic mail between or among a quorum of a public body on any public business within its jurisdiction. Committee members should avoid emailing an opinion on a matter within the committee's jurisdiction as these email communications can be forwarded to multiple members of the committee. In forwarding the email a quorum of the committee can be unintentionally created and constitute a deliberation that did not occur at an open meeting. Individuals don't violate OML; the committee violates the OML. The best practice to avoid violating OML with email communication is to send emails through a staff member who is not subject to OML. Then the staff person can forward the email/information to the committee. But opinions should not be reflected in emails.

Mr. Harrington continued with some reminders about the Conflict of Interest (COI) law. If a committee member has a financial interest, either positive or negative, in any vote, that member should recuse themselves or, at a minimum email or call Town Counsel. Financial interest does not include contributions to charities, events, elections or supporting candidates in your own name. If an individual donates, it is a public record but that does not need to be shared. The Moderator may have stricter rules. A committee member may sign his or her name to a newspaper as an individual, not as a member of the committee. The state considers this using a committee title to monetizing a committee appointment.

**2023 ATM Warrant Article 31 -Authorize PILOT Agreement with Citizens Energy for Personal Property and Real Property Taxes – Municipal Light Plant (MLP)**

Paul Criswell, Chair, Municipal Light Board (MLB); Don Newell, Director, MLP were present and provided Advisory with answers to questions from previous presentations and information regarding Article 31.

Article 31 concerns the construction of a battery storage system and the agreement the MLP entered with Citizens Energy. As background information, when the MLP is charged for purchased electricity (that is then sold to residents), there are three (3) components to that charge. There is the power charge, which is how much the MLP pays for the electrons that are flowing to the MLP; the forward capacity charge; and a transmission charge. The charges are set based on the amount of electricity that is used. If power consumption can be reduced, particularly during peak periods, the MLP saves money because fewer electrons were bought and the MLP pays a smaller percentage for the smaller forward capacity charge and

a smaller transmission charge for the next month or year. This has a multiplier effect. The MLP is competing with every other user of electricity throughout the Northeast who are also trying to minimize their contribution to the peak. The battery storage project could help with this “peak shaving” in Wellesley. A large-scale battery can supply electricity when Wellesley’s demand gets close to the peak. This use will not count towards Wellesley’s contribution to the peak because it is “behind the meter,” i.e., the electricity has already been purchased at a time when usage is less. A large-scale battery is very expensive and is complex to operate. There is also a risk as to whether money will be saved.

After completing extensive modeling and receiving bids and negotiating with several different entities, the MLP entered a contract with Citizens Energy to pay for and to build a battery storage system on MLP (town) land. Citizens Energy will also pay the operating expenses of the battery storage system. Citizens Energy will be compensated by calculating the savings to the ratepayers in this peak shave. Those savings will be split between Citizens Energy and the MLP.

As a large, expensive and valuable piece of equipment owned by Citizens Energy, the battery storage system would be subject to personal property tax. It was the understanding, as has been done in other towns, that there would be a payment in lieu of taxes (PILOT) agreement with Citizens Energy so they would not pay the full personal property tax on the equipment. MLP did not account for this in the contract with Citizens Energy. Citizens Energy assumed that they would enter into a negotiation and agreement with Select Board so they would not have to pay those taxes.

Therefore Article 31 enables and authorizes the Select Board to enter into negotiations for a payment in lieu of taxes (PILOT) agreement with Citizens Energy. This is a necessary step to enable the Select Board to enter those negotiations. If Citizens Energy needs to pay personal property taxes as an expense from the savings, then there would be less money to go to the MLP and the savings to the rate payers would be less.

If Article 31 does not pass and there is not a PILOT, Citizens Energy will pay full taxes. In addition, the MLP land is being leased to Citizens Energy for a commercial purpose, therefore the land falls back under the tax rolls. There are a series of complex agreements on this, and the PILOT agreement is the final component. The Board of Assessors also needs to approve the PILOT. The value will be appraised and forecast over several years to develop a value and determine personal property taxes over that period of time. This will help both Citizens Energy and MLP forecast future expenses and income.

### Questions

- Was there an RFP and competition for this battery storage system?
  - Yes
- Is there an independent party calculating the savings and is this specified in the agreement?
  - The method of computation is in the agreement and Francisco Frias (MLP) will be working on those calculations. If there is a disagreement in the calculations, the agreement addresses this. Energy New England is also used for projections. But approval of this agreement is not being sought in Article 31. The agreement and the lease have been signed. This article seeks to put a PILOT in place.
- Does the motion need to specify the actual numbers?
  - It does not need to specify the actual numbers. However, it is hoped that the PILOT agreement, including the dollar amount, will be negotiated and completed prior to Town Meeting. Technically the numbers are not needed, as Town Meeting can authorize the Select Board and the Board of Assessors to act in its behalf.

- A question was asked about the Inflation Reduction Act passed in January for the installation of items such as batteries and whether the credit would be given to Citizens Energy or to the MLP and the town.
  - The MLP does not own this and is not investing capital dollars to install it. It is understood that there were adjustments made to the initial proposal based on the Inflation Reduction Act. The agreement is on a shared savings or paid for performance basis for peak shaving for capacity and transmission.
- Does MLP have its own performance metrics?
  - The MLP has discussed all this and modeled the system. The MLP has taken all this into consideration and negotiation.
- How is the PILOT being structured? Is it a one-time payment or a payment for 20 years? And if it is for 20 years, is it straight-line or accelerated depreciation?
  - At this point, that is unknown; an answer would be speculative but the town would work with the MLP.
- A comment was made that the taxpayers are giving up tax income and the rate payers get a benefit. Does it make sense to ask the rate payers to reimburse the taxpayers for that difference?
  - The MLP did the work and found that this program offers the opportunity to create an \$8 million benefit to the town, so it is appropriate for the rate payers to benefit. Since taxes are deductible for homeowners and electric bills are not, there is a little more of a benefit to have higher taxes and a lower electric bill.

#### **2023 ATM Warrant Article 41 - Amend 40R Zoning for additional 250 Housing Units**

Meghan Jop, Executive Director; Lise Olney, Chair, Select Board (SB); Tom Ulfelder, Vice Chair, SB; Eric Arbeene, Director, Planning Department; Jim Roberti, Chair, Planning Board (PB); and Patty Mallet, PB, were present and provided information regarding Article 41.

#### **Questions**

- A comment was made that this is a great idea and the modification to 60% of AMI is great.
- A request was made for comment on the impact of additional students in the school system.
  - The enrollment is not increasing townwide, so the schools can shift students around if necessary. However, there is no timeframe for construction. In the future, if there were enough of an increase in enrollment, that might be the trigger to build a seventh (7<sup>th</sup>) elementary school or to redistrict.
- A question was asked about sustainability and whether it is possible that this could become 100% electrified with no gas.
  - If the town moves forward with the opt-in stretch code, it will create a different level of construction. The developer has a significant commitment to sustainability, and they are looking at the amenities, but the town does not currently have a prohibition on gas. The project is still in negotiation. The existing building has gas for gas fireplaces. This new building would not have that. The developers would like gas for exterior amenities like grills and fire pits.
- Will water, sewer and electricity be supplied by the town?
  - Yes
- Can solar panels be installed on the roof of the new building to compensate for the gas in the existing building? Can solar panels be installed on the existing building?
  - This may be considered for new buildings, but currently there is not a specific project proposed and thus no design plans to indicate to whether this will be done or not. The new opt-in stretch code, should it be approved, should push future development in this direction.

- Has the Board of Health (BOH) or Health Department been included in this? There are some concerns from current tenants who have contacted the BOH. A suggestion was made to add the BOH for an additional potential cost.
  - They haven't been part of the formal process, but with so many new housing units being created and additional people living in Wellesley, it's certainly expected that there will be more demands on services that the Town provides.
- Where is the hotel on the map?
  - It is a conceptual map, and it was subject to whatever building the developer chose to develop. There is no master plan for the site.
- Could a playground or convenience store be put in the amendment, as the site is a bit isolated with the river behind it and Route 128 and Route 9 surrounding the site.
  - There is a location identified for a small grocery store but with only 350 units occupied the demand is not there at this time. We have talked with the BOH and some of the social workers. The regulatory agreement indicates the utility allowance. With the size of the development, which is new for Wellesley, there will be different service needs from social services, mental health services, and emergency services. Partnering with the Housing Authority to create an additional social worker will benefit this development as well. Social services will need to be evaluated each year.
- Does the town receive less than the \$700,000 if the units are ownership versus rental?
  - The \$700,000 is based on shared density and will not be impacted if the units are ownership instead of rental. However, it does impact the subsidized housing inventory (SHI). If a development is rental, then all the units count towards the SHI. If the development is condos, then only the affordable units count towards the SHI. For every major development, the town needs 10% or more as affordable units, so we don't drop below the necessary SHI. The town does not want to create only market-rate housing.
- What is the benefit to the Town in terms of the MBTA Communities law?
  - There is a group comprised of Planning, Building Department, Executive Director, and Sustainability Director to work on how to meet the MBTA Community requirements. MBTA Communities requires communities that either have MBTA stops or commuter rail stops to zone within a half-mile radius of the stop a housing density of 15 units or greater per acre. The entire 40R district falls within a half mile of the Waban T stop. So, all the units would count. The town would like to meet the MBTA Communities' requirements and put the zoning in place because the town does not want to risk losing grants and housing authority funds.
- Will the development agreement be completed for Town Meeting?
  - That is the goal.
- Does the Planning Board vote after the agreement is completed?
  - The Planning Board makes a recommendation on the zoning, and it does not have to be an affirmative. They need to hold the public hearing and make a recommendation to Town Meeting. This is a 50% vote and not a 2/3rds vote like other zoning.
- As it relates to the opt in-stretch code, when will the building begin?
  - There isn't a specific project. It could be 5 to 10 years before there is. There is no timeline. John Hancock would like to sell. The timeline for phase 2 is unknown.
- A comment was made about the need for housing for the "missing middle," such as young professionals trying to find their way back into town but can't afford market and don't qualify for affordable. A question was asked as to what can be done to develop more inventory.
  - That is the basis for MBTA Communities and that is the challenge across the Commonwealth. It is a supply and demand issue. But adding more inventory will impact open space, neighborhoods, traffic, schools. It is understood that people do not want their

- neighborhoods to change. Housing is a regional issue. But we must start planning and looking at projects now. There are more multi-family projects in the pipeline.
- There are very few mechanisms to subsidize the middle – it’s either 80% AMI for subsidized or it’s market rate. It needs to be done by creating denser development.
  - This does not mean that every development needs to be 200 or 100 units, it could be done incrementally with two- and three -family homes. Fieldstone Way is a great example of 44 units on 12 acres.
  - A comment was made that this project, like any project that increases density, is also a climate project.
  - Where do people go for amenities now? Do they go out onto Route 9?
    - There is space for a retail component, such as small grocery store, but it’s not filled at The Nines because the property is not at full capacity. They received their most recent certificate of occupancy at the end of December. The apartments are about 60% occupied and at this time people need to leave the site. However, there are different transit options. The MetroWest Regional Transit Authority Catch Connect service is being used. There are many outdoor amenities such as the trail system and jogging path. Currently there is no playground, but Wellesley has those amenities in town at the various playgrounds and schools. The expectation is that the residents could and would use townwide amenities.
  - A question was asked about the potential for diminishing return at some point given the increase in the community and demand on services.
    - There are other one-time costs that are not factored into the ongoing costs; for example, the building permit has a one-time impact. This has not been modeled out because we don’t know the size of the building.

### **Discussion/Voting 2023 ATM Warrant Articles**

#### **Article 9 – Revolving Funds**

*Susan Clapham made, and Doug Smith seconded a motion for favorable action on Warrant Article 9, as proposed by the Select Board, that the Town vote to set the limit on the total amount that may be spent from each revolving fund for Fiscal Year 2024 as set forth in the Warrant and Motion.*

#### **Discussion**

- A comment was made that it is useful to see the existing revolving fund balances and to see the amount of money added to the already existing funds. It was felt this will be helpful for Town Meeting.
- A comment was made that the Weston Road Garden fund went up because of water costs.
- A comment was made that this is an efficient way for the town to manage these funds. The town has been able to keep costs flat, especially in a high inflationary environment. Support for this article was expressed.

Roll call vote was taken.

**Advisory recommends favorable action on Article 9, 13 to 0.**

#### **Article 11 – Special Education Reserve Fund**

*Susan Clapham made, and Bill Schaufler seconded a motion for favorable action on Warrant Article 11, Motion 1, as proposed by the Select Board, that the Town vote to transfer \$63,938 (representing an amount equal to Medicaid reimbursements for FY2023) from Free Cash, certified as of July 1, 2022, to the Special Education Reserve Fund to pay for unanticipated or unbudgeted costs of special education, out-of-district tuition, or transportation.*

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### **Discussion**

- A comment was made that it is important to note the distinction, either in Article 8 or in this Article, that these funds don't apply to the increase in out-of-district funds that are impacting the school budget this year
- A comment was made that this is an important fund.
- A comment was made that Medicaid reimbursements come to town and must be transferred to this fund. So, this is a procedural process that must happen and needs to be approved. In the past the town has approved transferring more funds beyond those received from Medicaid, but this does not need to be done this year.
- A comment was made about the control of the fund and disbursements, which need to be approved by the Schools and the SB: there is oversight.
- A comment was made about the distinction of unanticipated and unbudgeted. Although the increase by 14% in out-of-district costs was a surprise, the schools were notified in advance so they could budget for the increase. This increase was not "unanticipated." Schools have an understanding for whom they will be providing out-of-district services and budget accordingly; if this fund is used, for example, a family moves into town and needs services. That would be an unanticipated expense that was not budgeted for.

Roll call vote was taken.

**Advisory recommends favorable action on Article 11, 13 to 0.**

### **Article 7, Motion 2 – Fire Department training and chief search**

*Susan Clapham made, and Doug Smith seconded a motion for favorable action on Warrant Article 7, Motion 2, as proposed by the Select Board, that the sum of \$60,000 be transferred to the Fire Department to fund Fire Academy training and Fire Chief search as provided in the Warrant and the Motion.*

### **Discussion**

- A comment was made that since the Fire Chief retired, there is a Fire Chief search that was unanticipated. The training costs are due to a backlog in the normal training that would have cost less. These are one-time expenses.
- A comment was made that a consultant was hired who is experienced in locating the right person for the Chief position. In addition, six (6) new firefighters were hired; they could not be scheduled into regular fire academy, however, due to the backlog of 6 to 8 months. The Boston Fire Department offered training to all the metro fire departments, but there is a cost. New firefighters will be ready sooner which will help with overtime costs.
- The new Fire Chief will report to the Executive Director so they can be brought up to speed quickly.

Roll call vote was taken.

**Advisory recommends favorable action on Article 7, Motion 2, 13 to 0.**

### **Article 21 – Firetruck Purchase**

*Susan Clapham made, and Gail Sullivan seconded a motion for favorable action on Warrant Article 21, Motion 1, as proposed by the Select Board, that the Town appropriate the sum of \$885,000 for the purchase of a Fire Engine Truck, including all costs incidental and related, said sum to be raised by a transfer from Free Cash.*

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### **Discussion**

- Wellesley College and Babson College are not contributing to this fire truck as the engine is not the type to be helpful with the needs of the college buildings. The Quint can respond to the college needs.
- A comment was made that at this time the specs are approximate.
- A comment was made that the “green” firetruck, which can operate its auxiliary systems without engine idling, is appreciated. It is an ecofriendly and safer option.

Roll call vote was taken.

**Advisory recommends favorable action on Article 21, 13 to 0.**

### **Article 20 – Warren HVAC Renovation**

*Susan Clapham made, and Madison Riley seconded a motion for favorable action on Warrant Article 20, Motion 1, as proposed by the Permanent Building Committee and the Select Board, that the Town vote to appropriate \$531,075 to be expended under the direction of the Permanent Building Committee, for architectural and engineering designs, plans, other specifications, bud support and any associated costs related to the design of, construction, reconstruction, replacement, and retrofitting of HVAC equipment and fixtures at the Warren Building, said sum to be raised from Free Cash.*

### **Discussion**

- A comment was made that this is about \$6,000 less than what was originally proposed when FMD presented this in December. Due to the experience of FMD staff, FMD negotiated a lower rate with the engineering consultants.
- Support was expressed for this article due to the issues of air quality, health and safety and the roofing in the building.
- A comment was made that this will be an all-electric HVAC replacement.
- A comment was made that the Warren HVAC was in the five-year capital plan and FMD is finishing catching up on capital projects delayed during COVID. This was identified in the FY22 cash capital.
- A comment was made that FMD does a great job of keeping ahead of the issues.

Roll call vote was taken.

**Advisory recommends favorable action on Article 20, 13 to 0.**

### **Article 37 – Amend Town Bylaws for Deputy Police Chief and Assistant Fire Chief Contracts**

*Susan Clapham made, and Bill Schauffler seconded a motion for favorable action on Warrant Article 37, Motion 1, as proposed by the Select Board, that the Town vote to amend the General Bylaws to authorize the Police Chief and the Board of Fire Engineers to enter 3-year employment contracts with the Deputy Police Chief and Assistant Fire Chief, respectively, as set forth in the Warrant and the Motion.*

### **Discussion**

- A comment was made that the bylaw allows the increase to a three-year contract if approved by Town Meeting. These are currently one-year contracts. These positions are contract because the HR Hay system could not handle the increases for these positions.

Roll call vote was taken.

**Advisory recommends favorable action on Article 37, 12 to 0.**

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**Article 38 – Amend Article 19.47 to increase disposal of property valuation**

*Susan Clapham made, and Neal Goins seconded a motion for favorable action on Warrant Article 38, Motion 1, as proposed by the Select Board, to amend Article 19.47 “Disposal of Town Property” of the General Bylaws to increase the valuation of tangible Town Property requiring Town Meeting action from \$10,000 to \$50,000, as set forth in the Warrant and the Article.*

**Discussion**

- A comment was made that the article language keeps the MLP limit unchanged. The MLP limit has been updated at different times. The MLP didn’t indicate a need to increase their limit.
- A comment was made that if cumulative inflation were applied to the rate from 1966 the increase could be higher.

Roll call vote was taken.

**Advisory recommends favorable action on Article 38, 13 to 0.**

**Article 30 – Authorize Use of 40R Fund for Housing Authority Capital Projects**

*Susan Clapham made, and Wendy Paul seconded a motion for favorable action on Warrant Article 30, Motion 1, as proposed by the Select Board, that the sum of \$310,226 be appropriated to the Wellesley Housing Authority from the funds received from the Commonwealth of Massachusetts 40R Zoning and Density Payment for the purposes of (1) renovating and improving certain areas of the Washington Street Community Center to ensure ADA compliance and (2) converting 2% of the housing units in the River Street Apartment complex to be accessible to residents who are hearing and/or visually impaired, as set forth in the Warrant and the Motion.*

**Discussion**

- A comment was made that this is an excellent use of available 40R funds, the current balance of which is \$838,000.
- A comment was made that the community center has not been touched since 1971.
- A comment was made that this is a commendable effort by the SB to come up with an alternative creative use of funds to solve the housing authority needs.
- A comment was made that housing authority funding comes from the state and not from the town and that making these improvements is important.

Roll call vote was taken.

**Advisory recommends favorable action on Article 30, 13 to 0.**

**Article 32 – Authorize Modification of HR Policies**

*Susan Clapham made, and Gail Sullivan seconded a motion for favorable action on Warrant Article 32, Motion 1, as proposed by the Human Resources Board, that the Town revise the Town of Wellesley Personnel Policy by (1) modifying the following policies: Sick Leave, Vacations with Pay, Military Leave, and (2) adding the following new policies: Working Out of Classification, as documented on file with the Town Clerk.*

**Discussion**

- A comment was made that there are still open questions about retention policies and that responses have not been received from HR.
- Support was expressed for these policy changes and a comment was made that it is hard to tell if these policies are competitive enough.
- Support was expressed for these policies, but a question was asked if there are policies beyond these that can help improve retention.



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- A comment was made that every department has indicated problems with retention and the question to HR is to propose a strong program to improve the retention.
- A comment was made that realistically policies will not be added to this motion, but the question is whether this is complete.
- Support was expressed for the policies but that it's hard to tell if Wellesley is not competitive or pro-active.
- A comment was made that it would be good to put these comments in the writeup to follow up next year.

*Jenn Fallon made, and Doug Smith seconded a motion to table the vote on Article 32 until the requested additional information was received from HR.*

Roll call vote was taken.

**Advisory's vote on Article 32 was tabled until additional information from HR is received, 13 to 0.**

### **Administrative**

The next meetings were reviewed. An updated script will be sent out to reflect what was completed tonight.

### **Minutes Approval**

*Al Ferrer made, and Andrea Ward seconded a motion to approve the February 15, 2023, minutes.*

**February 15, 2023 minutes were approved, 12 – 0 with 1 abstention.**

### **Liaison updates**

*BOH/Christina Dougherty* – an update of recent BOH meeting was provided: Covid cases are significantly down; May 11 marks the end of free Covid test kits but the BOH still has kits available; new newsletter has been launched and people can sign up via the BOH website; the MetroWest Adolescent Risk Survey was completed in June, but the data is given to the BOH at the same time it is released to the public in February; the BOH would like to receive this data much sooner as they believe it is critical information; Tobacco Control's partnership with Newton is ending and it is being brought back in house; there is a big increase in products containing nicotine, hemp, and CBD. In addition, there is a new, very concerning, synthetic cannabinoid called Delta 8, which has a psychoactive component and currently no age restriction. The state is unclear about who is supposed to regulate it. There was discussion around pop-up dealers reaching kids on Snapchat and providing a location to meet up to buy drugs or alcohol. This is very hard to control because the Snap disappears. The BOH discussed the possibility of asking to use some of the opioid settlement money for education. The BOH plans to educate the local retail stores and encourage them not to carry it. There are 300 units at The Nines with 83 children in occupied units. Residents at the property have reached out to the BOH with their concerns, which include an unguarded pool; no play structures or open areas for kids; tenants are being charged for water, sewer, gas, and electric services, as well as first and last month security deposit; and it is isolated with no easy access to amenities.

*Planning/Madison Riley* – the recent Planning public hearing covered both Article 41 and 42. The Public Hearing was left open and will resume next Tuesday, 2/28. The Planning Board voted Eric Arbeene the full time Planning Director.

*COA/Bill Schaffler* - the new director is getting involved in many things; recruitment for the assistant director continues; there are a kitchen working group and a strategic plan working group; when Town Hall closes for renovation, the COA rooms will be used for meetings; the COA is looking to see if it is possible to piggyback on those evening hours to attract additional patrons.

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*Recreation/PFTF/Wendy Paul* – field utilization study is still under way, working in conjunction with the NRC; raw data is still being collected from the various constituencies who use the field; some of the user groups are paying to rent space on local college fields and at Elm Bank.

*DPW/Pete Pedersen* – FY24 budgets were approved by BPW; taking \$9.7 million away from what was to be borrowed relating to the drinking water problems necessitated by the PFAS discovery and the MWRA connection. In addition, at this point, Wellesley is not joining the PFAS lawsuit with neighboring towns.

### **Adjourn**

*Bill Schauffler made, and Al Ferrer seconded a motion to adjourn.*

The meeting was adjourned at 10:08 p.m., 13 to 0.

### **Meeting Documents Reviewed**

<https://www.wellesleyma.gov/DocumentCenter/Index/2008>

- MLP Advisory Additional information 2/22/23