

Advisory Committee Meeting Minutes

Date: March 3, 2020

Place: Town Hall

In attendance: Committee Members Victor Baltera, Bob Curley, Julie Strehle, Tom Belyea, Eryn Kelley, Evan Sheehan, Libby Claypoole, George Danis, Andy McElaney, Davalene Cooper, Dave Anderson, Nancy MacDonald, Ed Gaydos, Kathleen Almand, and Town Accountant Sue Nickerson.

Absent: Eric Haskell.

Chairman Baltera called the meeting to order at 7:33 pm.

Comments from the public regarding items not on the Agenda None

Approval of Minutes from February 25 and 27, 2020 Meetings

Minutes of the Meeting on 2/25/2020 were approved with revisions by a vote of 13-0.

Minutes of the Meeting on 2/27/2020 were approved with revisions by a vote of 12-0-1.

Budget Hearing: Education

Dave Anderson provided an update on the status of the education budget. The ACES sub-committee met with School Committee members, Superintendent Dr. Paul Austin and School Business Manager John Ferris, before this evening's AdCom meeting to discuss a recommended budget amount. Mr. Anderson and other ACES members feel that the budget process this year was a thorough assessment, with good discussions with AdCom and the community throughout the process. As has been discussed at earlier meetings, Dr. Austin had presented a baseline "Status Quo Budget" of \$56.7 million. This is the budget with a level amount of FTEs (full time equivalent) which grows because of contractual requirements, including step increases and additional education, as well as inflationary increases for non-salary expenses. In addition to the baseline budget amount, Dr. Austin had created three tiers of additional investment in schools. Tier 1, most critical, would result in an increase above the status quo budget of \$931,000; and then beyond that, up to Tier 3, additional requests increase up to \$5,000,000. The School Committee believes that the schools are underfunded in a meaningful way. To rectify that shortfall the School Committee is discussing sources of additional revenue, including an operational override.

Historically the average approved school budget increase has been 4.4% annually. If last year's school department budget were increased by 4.4%, that 4.4% would equal Dr. Austin's Status Quo budget. ACES believes that Tier 1 needs are critical and valuable, which include specialists and tutors for math intervention, special education and STEM teachers, and administrative support. The request for a Director of Fine Arts is included in the Tier 2 request, which is an addition which many residents in the community consider important, too.

While the Budget Forecast dated 1/29/2020 included an education budget request of Status Quo plus Tier 1, the total budget requests (municipal plus education) resulted in a deficit of \$1.7 million. This week, Town Administrator Tom Mayo updated the Budget Forecast, and created a “path to a balanced budget”, which zeroed out the Tier 1 requests and zeroed out any additional requests for the municipal budget. Mr. Mayo’s proposed path also reduced the education budget status quo request by \$124,000, which are Pre-K expenses which could be funded by a revolving fund, resulting in an education budget reduction (from the 1/29/2020 forecast) of \$931,000 (Tier 1) plus \$124,000 (revolving fund) for a total education budget request of \$56,607,150, a net negative impact of a little over \$1 million compared to the 1/29/2020 forecast. ACES debated this proposed budget amount, feeling that the Status Quo budget is truly barebones. ACES chose to recommend \$56,730,985, which is the Status Quo budget, and not recommend the negative adjustment of \$124,000 (using revolving funds). Use of the revolving fund is intended to address a deficiency in Pre-Kindergarten staffing.

Bob Curley explained his vote for \$56.6 million, the lower amount, including using \$124,000 out of a revolving fund, which would leave an overall budget surplus of \$87,000. Mr. Mayo has stated that his priority additional request amount on the municipal budget side is \$87,000, which will be addressed specifically during the budget discussion scheduled for the AdCom meeting on Thursday 3/5/2020. George Danis feels that while the ACES budget recommendation is appropriate, the Town has a revenue issue, across all of the budgets. Evan Sheehan added that the Town needs to take a look at what can be done to address the revenue issue, including finding alternative funding sources, and an override.

The Town budget will be discussed further at the AdCom meeting on 3/5/2020, with an AdCom vote scheduled for Tuesday, 3/10/2020.

Warrant Article Vote

AA – Tree Preservation By-law – Bob Curley, having previously introduced this Article at the AdCom meeting on 2/27/2020, provided a Comment and recommendation for no action. Petitioner Priya Howell was present to answer any questions. Mr. Curley’s recommendation is based on the lack of opportunities for debate or public hearings on this proposed by-law; and the questions raised concerning the need for a by-law or a by-law in this particular form by the Board of Selectmen (“BOS”), Department of Public Works, and Community Planning Department. Mr. Curley wrote in the Comment that there is a need for additional study on this issue, and that a working group should be established at the discretion of BOS. Mr. Curley made a motion that no action be taken on this Article, and was seconded.

With this motion on the floor, discussion of this Article continued. Davalene Cooper thinks that while the case hasn’t been made for this particular by-law, leaving the issue to consider by the Town boards is appropriate. Mr. Anderson offered praise to any citizens who petition Town Meeting. While he understands how this issue hasn’t had time for discussion or vetting, he is concerned that without specifically recommending that a town committee be formed to study this issue (and whether existing by-laws are sufficient or should be tweaked), the effort to preserve

old trees might ultimately be forgotten. To that end, Dave introduced an alternate recommended motion, which was seconded:

That the Town establish a study committee consisting of a chairperson and four [six] additional members appointed by the Moderator (3 appointees), Board of Selectmen (1 [2] appointee) and Planning Board (1 [2] appointee) for the purpose of considering whether the Town should adopt a tree preservation by-law. The committee shall report the results of its review prior to the 2021 Annual Town Meeting, and, if the committee wishes to recommend a tree preservation by-law, it should prepare an Article in time to present to the 2021 Annual Town Meeting.

AdCom members discussed whether this issue could be considered by an existing study group, such as the Energy Action Committee. Some members were concerned that the Town administration and Planning Board would need to weigh in on the mandate of a study committee, its makeup, and appointment powers. After pausing to take a straw poll of AdCom members' thoughts on a vote for or against Mr. Anderson's motion, discussion continued, including how the preservation of trees is a topic which has merit for people throughout the community. Ms. Howell spoke in favor of the creation of a study committee, so finding a solution to the issue can move forward.

The vote to approve Mr. Anderson's motion was defeated, 3-10.

The committee then took up Mr. Curley's original motion for no action. Based on the discussion this evening, Mr. Curley changed the Comment to end with, "The Advisory Committee supports the establishment of a working group or committee for the study of the need for additional tree regulation in the Town or to modify existing Town tree regulations and to determine the content of any By-law or regulation determined to be appropriate. The majority of the Advisory Committee believed that the establishment of such a working group or committee should be left to the discretion of the Board of Selectmen to determine whether such a study would fall within the purview of existing Town Departments or committees or whether a separate working group was appropriate to be established at the discretion of the Board of Selectmen. The minority of the Advisory Committee thought the establishment of a committee should be mandatory."

The vote to recommend no action on this Article was 10-3. Dave Anderson and Evan Sheehan wished to be recorded in opposition.

Warrant Article Hearings and Votes

For the following Articles which propose amendments to Zoning By-laws, Planning Board Chair Bill Ramsay, Director of Community Planning Mary Savage-Dunham, Land Use & Development Senior Planner Emily Wentworth, and Real Estate Counsel for the Town Susan Murphy, were present to answer any questions.

BBB – Amend Zoning By-law: Site Plan Review – Andy McElaney provided an overview of this Article, Comment, and a favorable recommendation. This Article asks whether the Town will amend parts of the Zoning By-law Section I, Site Plan Review. Items 1 through 3 are

housekeeping changes, with Item 2 (which would correct a capitalization of a word) deemed unnecessary. Item 1 corrects a reference to a previous subsection of the Zoning By-law, and Item 3 is a clarification to make plain that certain requirements in this section only apply to projects requiring erosion control installation or any clearing.

The most significant change to the site plan review provisions of the Zoning By-law is detailed in Item 4 of the Article. The proposed language would reduce the size of a land disturbance or alteration of a drainage pattern that would trigger site plan review, from 20,000 square feet to 5,000 square feet. The decrease in the site plan review threshold was motivated in part by numerous cases of water runoff in public ways and across private property when houses are demolished or additions are built with inadequate provisions to handle stormwater drainage. The Hingham Police Department has been repeatedly called to sites around Town because of these hazards, the Department of Public Works has to treat the roads in these locations multiple times, and stormwater drainage and silt accumulation is building up in sewer drains. The Hingham Planning Board studied these issues over the past year, and found that problems previously identified have not resolved themselves, this kind of impact is happening in locations all over Town, and the current By-law is not adequate to remediate all these problems of inadequate drainage.

This change could impact landowners seeking to make covered changes by adding to their project costs the additional expense of a drainage engineering analysis. However, for some small projects, these additional expenses might be avoided or reduced by the Planning Board Staff working with the landowner, by the Planning Board minimizing the extent of the necessary engineering analysis, or by the Planning Board granting a waiver. The Planning Board may take up a proposed change in the future to decrease the land disturbance square footage for projects with slopes greater than 10%.

For the recommended motion, Victor Baltera suggested removing Item 2, and re-numbering the Items. Dave Anderson recommended inserting the word "Would" at the beginning of the new Item 3, so it would read "Would 1) create a land disturbance or an alteration of drainage patterns over an area greater than 5,000 square feet;"

The vote to approve the recommendation, with the language changes, was 12-0. (Ms. Claypoole was not in the room at the time of the vote.)

CCC - Amend Zoning By-law: Downtown Overlay District - Eryn Kelley provided an overview of this Article, Comment, and a favorable recommendation. The purpose of this Article is to amend Section III-G of the Zoning By-law which pertains to the Downtown Hingham Overlay District ("DHOD"), which extends from CVS to the Fruit Center. Clarifications are proposed to the amount and location of the first floor commercial use on the ground floor of mixed use commercial/residential buildings (65% of the linear width of the ground floor of a mixed use commercial/residential building must be commercial and 55% of the overall area of the ground floor must be commercial); commercial use must be on the side of the building where the building has frontage; dwelling units may never be below the ground floor; if due to the slope of

the land on which the building is sited, there are two ground floors, then residential and commercial use may occur on both ground floors as long as the stated percentages are maintained; a safety valve is included for developers to apply to the Zoning Board of Appeals for relief; and language of the By-law is edited to correct grammatical errors and use words that have defined meaning in the Zoning By-law, such as “ground floor”.

While the Town encourages commercial and residential mixed use properties in the DHOD, this Article seeks to clarify what the mix should be. Commercial use needs to be set on the first floor of the property, on the frontage of the street.

The vote to approve the recommendation was 12-0. (Ms. Claypoole was not in the room at the time of the vote.)

EEE - Amend Zoning By-law: Update Flood Plain Map References - Ms. Kelley provided an overview of this Article, Comment, and a favorable recommendation. The purpose of this Article is to update Section III-C of the Zoning By-law with the most recent revision of the Flood Insurance Rate Map, which identifies which areas of the Town lie within the ambit of the National Flood Insurance Program (“NFIP”). Federal law requires that the Town, as a condition of its continued participation in the NFIP, to regulate activities located in Flood Hazard areas as reflected in the new maps. Updates proposed by the Article are necessary for the Town to remain in compliance with the federal program, and thus make federal flood insurance available to residents of the Town.

The vote to approve the recommendation was 12-0. (Ms. Claypoole was not in the room at the time of the vote.)

DDD - Amend Zoning By-law: Abandonment or Discontinuance of Nonconforming Single-family & Two Family Dwellings - Mr. Anderson provided an overview of this Article, Comment, and a favorable recommendation. The purpose of this Article is to update Section III-I, D. of the Zoning By-law, which regulates the abandonment or discontinuance of nonconformities and establishes parameters for when they might be reestablished. This proposed amendment is an effort to specify the exemptions that relate to abandoned or discontinued nonconforming single-family and two-family dwellings. A conforming single-family or two-family dwelling use could be reestablished in a dimensionally nonconforming structure that had been abandoned or discontinued for a period of more than two years. The amendment would also limit changes that could be made to the building or structure in reestablishing the conforming use to: any alteration, reconstruction, addition, extension, or structural change that does not extend the yard and/or height dimensional conditions that were nonconforming at the time the building or structure was abandoned or discontinued.

Town resident Tom Patch questioned whether case law exists which sets out parameters of reconstruction and the time period. Susan Murphy replied that case law is clear, that if a house is demolished and it’s not in a reconstruction process, and the lot sits, if the lot is nonconforming, then the landowner has lost the opportunity to rebuild. A related question was

whether someone could tear down a nonconforming building, and then rebuild years later within parameters of old foundation, to which Ms. Murphy answered no, that person would have abandoned the property.

The vote to approve the recommendation was 12-0 (Ed Gaydos was not in the room at the time of the vote.)

R - Water: Local Acceptance of MGL c. 40 secs. 42A - 42I - Mr. Curley reintroduced this Article, which he first presented to AdCom on 2/27/2020, with more information based on concerns raised during the initial hearing.

This Article asks the Town to accept provisions of M.G.L. c.40 s. 42A to 42F, which allow municipalities which accept these provisions to establish a lien upon real estate where an owner or tenant fails to pay for water charges due to the Town, and accept provisions of M.G.L. c. 40 s. 42G to 42I, which allows municipalities to levy special assessments to meet the whole or part of the cost incurred in laying pipes in public and private ways for the conveyance or distribution of water to its inhabitants.

The concern previously raised over this Article was whether the Town could use assessments on lands of non-ratepayers to fund its capital costs for laying pipes, instead of having the costs borne by ratepayers. Mr. Curley proposes adding language to the Comment to indicate that this Article is to accept statutes which permit, but don't require, the Town to take certain actions if necessary.

The vote to approve the recommendation was 12-0. (Ed Gaydos was not in the room at the time of the vote.)

GG/HH: Discontinuance and Disbursement of Portion of Old Derby Street - Ms. Cooper provided an overview of this Article, Comment, and a favorable recommendation. This Article asks the Town to discontinue use as a public way of portions of Old Derby Street as identified on the Old Derby Street Discontinuance Plan as Portion A and Portion B, and would authorize but not require the Board of Selectmen to dispose of all or any of the discontinued area.

The reason for the discontinuance of the use of these two lots relates to the Massachusetts Department of Transportation's ("Mass DOT") recent Derby Street corridor project, which resulted in two "orphan" parcels of Old Derby Street. The Town has no use for either of these parcels as they now exist, and abutting property owners have expressed interest in purchasing the parcels once this Article is approved.

The vote to approve the recommendation was 12-0 (Ed Gaydos was not in the room at the time of the vote.)

Forecast

Town Accountant Sue Nickerson discussed the latest Five Year Forecast, dated 3/3/2020, with updated information on revenues and expenses. The budget was stripped of all additional requests on the municipal side, and also stripped of the Tier 1 additional requests plus \$124,000 of the education budget, which results in a surplus of \$190,000. (The \$124,000 in education funds would come from a revolving fund.) The Town Administrator has created a path to a balanced budget, including prioritized municipal additional requests of \$87,000, which will be discussed at the AdCom meeting on Thursday, 3/5/2020. Mr. Anderson will consult with the School Committee about the correct amount of revolving funds being used towards the education budget.

Liaison Reports - None

Warrant Process Update

The AdCom meeting on Thursday, 3/5/2020, will include a budget discussion, not a vote. Liaisons to municipal budgets should be prepared to discuss whether to recommend funding any additional requests.

Article O was not voted by BOS tonight, instead deferred to next week. Bill Reardon presented additional information to the BOS, including an update on the cost summary, which is larger than anticipated. Article EE, a harbor bylaw change, has been withdrawn. Article KK will be heard on Thursday. Article JJ could be deferred until next Tuesday, 3/10/2020.

Mr. McElaney posed a budget question for ACES, on whether it's possible to see an accounting of education funds actually expended over the past five years? While AdCom has no control over how the school department spends its funds, Mr. McElaney feels that it would be helpful to have this information. Ms. Nickerson noted that the school department annually turns back unspent funds in the range of 1% of its budget.

Discussion of Advisory Committee Housekeeping Items

The next meeting will be held on Thursday, 3/5/2020. Then AdCom will meet to vote on the budget and Article O on 3/10/2020. There is a meeting scheduled for Thursday, 3/12/2020, if necessary, but there are no scheduled topics yet.

Matters Not Anticipated within 48 Hours of the Meeting - None

Adjourn - 10:37 pm.

Respectfully submitted,
Julie Strehle, Secretary

List of Documents Distributed at this Meeting:

Agenda
Draft Minutes of Meetings on 2/25/2020 and 2/27/2020
Five Year Forecast, dated 3/3/2020

Changes between 1/29/2020 and 3/2/2020 Forecast
Articles AA, GG/HH, BBB, CCC, DDD, EEE, R
Article AA: Citizen's Petition Tree Preservation By-law presentation
Email correspondence in support of the Tree Preservation By-law
Map of Old Derby Street Parcels Affected by Article GG/HH
Warrant Article Status Summary, dated 3/3/2020

AdCom approved 5/12/2020