



**Town of West Boylston**  
140 Worcester Street, West Boylston, Massachusetts 01583

## **Select Board/Sewer Commission Meeting Minutes**

**Date / Time / Location of Meeting**

**March 15, 2023; 6:00 p.m.**  
**140 Worcester Street**  
**West Boylston, MA 01583**  
**Board Meeting Room 2<sup>nd</sup> Floor**  
**Hybrid with Zoom**

**Members Present:**

**Barur R. Rajeshkumar, Chairman**  
**Christopher A. Rucho, Vice Chairman**  
**Marc Frieden, Clerk**  
**Patrick J. Crowley**  
**Kristina Pedone**

**Members NOT Present:****Invited Guests:**

**Jennifer Warren-Dyment, Town Administrator**  
**Faye Zukowski, Municipal Assistant**  
**Kevin Duffy, Director of DPW**

### **THIS MEETING WAS HELD VIRTUALLY IN A HYBRID SETTING VIRTUAL MEETING INFORMATION:**

**To Join Zoom Meeting**

- <https://us06web.zoom.us/j/87876723839?pwd=NloySINNnwJsR09QWUVxYU9Fc0dyQT09>
- **Meeting ID: 878 7672 3839**
- **Passcode: 01583**
- **Dial by your location: (646) 558-8656 US (New York)**

**CONVENE MEETING – 6:00 pm**

- **Roll call**

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT:** This fifteen-minute period is an opportunity for the public to address their concerns and questions regarding town operations and programs to the Board. Except in urgent circumstances, any matter presented for consideration by the Board shall not be discussed in detail nor acted upon by the Board at this meeting. A scheduled time on a future agenda may be set at the Board's discretion. Complaints or criticism directed at staff, volunteers, or other town officials shall not be permitted. If we do not have Open Session items to discuss, other agenda items may be brought forward earlier.

**APPROVAL OF MEETING MINUTES:**

- **February 1, 2023 Regular Meeting Minutes**

*Motion Mr. Rucho moved to approve, Mr. Crowley second.*

*All in favor*

*Approved*

- **February 1, 2023 Executive Session Meeting Minutes, not for release**

*Motion Mr. Rucho moved to approve, Mr. Crowley second.*

*All in favor*

*Approved*

- **March 6, 2023 Regular Meeting Minutes**

*Motion Mr. Crowley moved to approve, Ms. Pedone second.*

*All in favor*

*Approved*

**REVIEW AND VOTE TO APPROVE WARRANTS FOR THE PERIOD COVERING MARCH 2, 2023 THROUGH MARCH 15, 2023: Town Payable Warrants FY2023-36 AND FY2023-37; Sewer Warrants FY2023-SE24 AND FY2023-SE25; Payroll Warrant FY2023-18; School Warrant FY2023-S18 and MLP FY2023 #19.**

*Motion Mr. Rucho moved to approve, Mr. Crowley second.*

*All in favor*

*Approved*

**6:05 pm Public Hearing: To Consider Amending of Policies:**

- **L-15, Gateway Sign Policy for Gateway Adoption Program**

Sarah Miles of the Economic Development Task Force presented the changes the Committee would like to the Policy. She explained they would like the term of the signs will be annual, fee change to align with yearly drawing and also includes a new location Pinecroft Square.

*Motion Ms. Pedone moved to close the Public Hearing, Mr. Frieden second.*

*All in favor*

*Approved*

*Motion Mr. Crowley moved to accept the amendments to the Policy L-15, Mr. Frieden second.*

*All in favor*

*Approved*

**NEW BUSINESS:**

- **Consider Sewer Abatement Request**

- **104 Angell Brook Drive**

Mr. Duffy presented the abatement request was due to leaking hot water tank and recommends a abatement of \$230.16

*Motion Mr. Crowley moved to approve the abatement in the amount of \$230.16, Ms. Pedone second.*

*All in favor*

*Approved*

- **Consider approving the Collective Bargaining Agreement between the Town of West Boylston Department of Public Works and Teamsters Union Local 170 with a term of July 1, 2020 through and including June 30, 2023**

Ms. Warren-Dymont explained the DPW and Cemetery Unions combined into a single bargaining unit and Memorandum of Agreement (MOA) was accepted in May of 2021. She stated the agreement includes the terms from the MOA. She thanked the Union and Kevin for the work on getting a finalized agreement. She stated they will begin working on the next contract.

**Motion** Mr. Crowley moved to approve the contract as presented, Mr. Rucho second.

Mr. Frieden asked when the next contract negotiations will begin, Ms. Warren-Dymont stated they wanted to get this contract completed and will begin the new contract within the next couple weeks.

**All in favor**

**Approved**

- **Consider approving an Annual Common Victualler License for Gourmet Donuts located at 231 West Boylston Street**

**Motion** Ms. Pedone moved to approve the license for Gourmet Donuts, Mr. Rucho second.

Mr. Crowley stated he filed a conflict-of-interest statement as he represents Gourmet Donuts Corporate even though this is a franchisee.

**All in favor**

**Approved**

- **Consider authorizing the West Boylston Public School Superintendent to submit the Statement of Interest Form to the Massachusetts School Building Authority**

**Motion** Mr. Frieden moved the Select Board vote to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form dated April 2023 for the West Boylston Middle/High School located at 125 Crescent Street, West Boylston, MA 01583 which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future: "Major Building Systems in Need of Replacement, Renovation or Modernization in Order to Extend the Useful Life of the Building" (deficiencies as described in the March 2022 Collier's Report) and hereby further specifically acknowledge that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the West Boylston Public Schools to filing an application for funding with the Massachusetts School Building Authority, Ms. Pedone second.

Ms. Warren-Dymont stated this is needed in order to apply for funding or renovation for buildings. She gave an overview of what the Collier's report is and a broad explanation of the findings.

**All in favor**

**Approved**

- **Consider approving the Intermunicipal Agreement (IMA) with the Town of Sterling and Town of West Boylston for the Shared Facilities Manager**

Ms. Warren-Dymont worked with the Town Administrator in Sterling on the agreement and Sterling will be voting to accept this agreement this week as well. She explained this agreement will be for one, Facilities Manager split evenly between two towns for forty hours a week. She stated Sterling would be host community and will provide vehicle and benefits, West Boylston would be responsible for 50% of these costs. She stated this is for only town buildings not schools. Mr. Crowley would like the buildings to be covered spelled out in the agreement, Mr. Rucho agrees.

**Motion** Mr. Crowley moved to approve the shared Facilities Manager IMA, Ms. Pedone second.

**All in favor**

**Approved**

- **Consider approving the Memorandum of Agreement (MOA) with Crescent Builders, LLC for a proposed Local Initiative Program (LIP) Development located at 73 West Boylston Street**

Ms. Warren-Dymont asked the Board to Passover at this time, due to the incomplete written punch list for Nuha Circle and Westland Circle from the Planning Board. She stated it will then be attached as exhibits to the MOA.

- **Town Administrators Preliminary FY2024 Budget Presentation**

Ms. Warren-Dyment stated this budget process was difficult mostly due to inflation and other priorities that she is trying to incorporate. She is confident a balanced budget will be presented and requested a special meeting next week and will invite the Finance Committee.

#### **OLD BUSINESS:**

- **Discussion of Reservoir Triangle Food Truck Licenses for the 2023 Season**

- **Consider approving use of triangle beginning April 1, 2023**

Ms. Warren-Dyment presented amendments to the license agreements which will allow both licensees to begin use of triangle on April 1<sup>st</sup> if they choose to execute the agreements. She stated the same terms, conditions and fees of former license and includes provisions if the vendor chooses not to go forward with a new agreement.

***Motion** Mr. Crowley moved to approve Triangle Food Truck license amended agreement subject to final revisions and changes by Town Counsel, Mr. Rucho second.*

***All in favor***

***Approved***

- **Consider approving new application process and forms for Reservoir Triangle Food Truck**

Ms. Warren-Dyment stated this will require a public hearing with fourteen (14) day notice.

- **Consider the Worcester County Retirement System Cost-of-Living Adjustment of an additional 2%**

Ms. Warren-Dyment stated the Finance Committee voted on February 27, 2023 to not increase to the 2% COLA as requested by the Worcester County Retirement. She stated the vote was based on the liability to the Town.

***Motion** Mr. Crowley moved to not increase the 2% COLA as requested by the Worcester County Retirement, Ms. Pedone second.*

***All in favor***

***Approved***

#### **APPOINTMENTS AND RESIGNATIONS:**

- **Resignation from David Femia from PEG Board effective February 27, 2023**

Withdrawn prior to meeting.

- **Consider the Appointment of Christopher Mitchell to the Zoning Board of Appeals, Associate Member effective March 16, 2023 for a term to expire on April 30, 2026**

***Motion** Mr. Crowley moved to approve, Ms. Pedone second.*

***All in favor***

***Approved***

#### **TOWN ADMINISTRATORS REPORT (May contain Departmental updates, community reminders and announcements, project updates, etc. No votes will be taken).**

1. **Fiscal Year 2022 Audit:** Powers and Sullivan has completed the FY2022 Audit. The Audit has revealed no material weaknesses or significant deficiencies. There was one error noted in a reporting CARES Act expenditures. Thank you to the Town Accountant and her team for another smooth audit.

Mr. Crowley would like to consider a bid for a new auditor when the contract is up, Ms. Warren-Dyment agrees and has requested a new team to be assigned from Powers and Sullivan.

2. **Rapid Flashing Beacons:** The installation of the new Rapid Flashing Beacons (RFBs) located on Crescent Street and Goodale Street have been installed and are fully operational. The new

school zone sign has also been installed. The sign for the Wachusett Country Club, that was grant funded, has been received and will be installed at the earliest opportunity this Spring.

3. **Thermographic Inspections of Municipal Buildings:** MIIA, the Town's insurer, recently conducted thermographic inspections at the Town Hall, Library, and Senior Center. There were no alarming low temperature readings. Recommendations have been provided for some loss prevention/loss reduction. These recommendations will be shared with the Facilities Manager.
4. **Board of Health Open Meeting Law Determination:** The Office of the Attorney General, Division of Open Government, recently issued its decision relative to Open Meeting Law complaint(s) levied against the Board of Health. They found the Board violated the Open Meeting Law by deliberating via email and ordered the Board to public release the emails (relative to Town Meeting and tobacco violations) within thirty (30) days of the receipt of the determination. Additionally, they ordered immediate and future compliance with the law's requirements and cautioned that a similar future violation could be considered evidence of intent to violate the law.

From the decision: "We find that the emails contain improper deliberations because these emails reached a quorum of the Board and included members' opinions on matters within the Board's jurisdiction... The expression of an opinion of by one public body member on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds...Moreover, the Open Meeting Law does not carve out an exception to the definition of "deliberation" for discussions that do not result in a decision or vote." The entire decision can be found on the website for the Attorney General.

5. **State Ethics Commission Training:** The State Ethics Commission has launched a new online Conflict of Interest training program. Every municipal employee, Board, Committee, and Commission member is required to create a log on and password. All must acknowledge receipt of the summary of the Conflict of Interest Law every year and complete the training every two year. The Town Clerk as disseminated this information to all. Please check your emails and complete the training as required.
6. **Supreme Judicial Court Case on Public Comment:** Included in the Select Board's packet is an update from Town Counsel on the SJC's recent decision in Barron v. Kolenda. This case dealt with a Select Board policy addressing public comment. "The Court concluded that the policy, which sought to implement standards of civility for public comment periods by limiting critique and rude or disparaging remarks, violated Articles 19 and 16 of the Massachusetts Declaration of Rights. In short, the Southborough court observed that 'although civility can and should be encouraged in political discourse, it cannot be required.' This case has important implications for public bodies." I request the Board carefully review the update from Town Counsel on this decision as it may have implications on the Public Comment period and Policy A-5 (Relations with Citizens). I have asked the Town Clerk to share Town Counsel's update with the Chairs of all Boards, Committees, and Commissions.
7. **Pride Park Multi-Board Meeting:** The Pride Park project is progressing along. The surveyor did have some difficulty in locating some of the bounds, which required additional field work. He has affirmed this data will be transmitted to Weston & Sampson this week. Weston & Sampson has completed two conceptual designs; one small and one large. I am looking to schedule a meeting with the Select Board, School Committee, Parks Commission, Parks Facilities Committee, Disability Commission and the general public where Weston & Sampson can present

their proposed design plans and discuss probable costs. I have asked Weston & Sampson if they feel they will be ready the week of April 3<sup>rd</sup> or April 10<sup>th</sup>. Stay tuned!

8. **Parkland Acquisitions and Renovations for Communities (PARC) Grant Program:** DPW Director Kevin Duffy and I will be attending an information session in Westborough in May on the Parkland Acquisitions and Renovations for Communities (PARC) Grant Program. To qualify for the grant, Towns must have an approved Open Space and Recreation Plan (West Boylston's Plan is approved through November 2023). There are many parks renovation projects in Town that could be considered. The reimbursement rate for this grant is 52-70%. This grant does require vote of Town Meeting and I have submitted a placeholder for consideration on the Warrant.
9. **Housing Production Plan:** The Affordable Housing Trust is submitting an Expression of Interest to the Department of Housing and Community Development to obtain funding to update the Town's Housing Production Plan. The Housing Production Plan was last updated in 2018 and is set to expire in November of this year. If grant funds are now awarded, the Affordable Housing Trust does have other funds available to update the Plan.

**MassRecycle Trade Show:** DPW Director Kevin Duffy will be attending the MassRecycle Trade Show in Marlboro on March 23<sup>rd</sup>. Together with the Solid Waste Advisory Team, we are committed to reducing waste while also stabilizing costs

#### **FUTURE AGENDA ITEMS/SELECT BOARD REPORTS:**

- Ms. Pedone announced that the Annual Gateway Sign program is available for businesses to apply.
- Ms. Pedone would like a future agenda item to discuss the Executive Session Minutes.

**EXECUTIVE SESSION:** Consider entering into executive session under the provisions of Massachusetts General Laws Chapter 30a, Section 21(A), purpose 3 to discuss strategy with respect to litigation (Federal Multidistrict Litigation vs. CVS, Walgreens, Walmart, Teva, and Allergam) and the Chair declares that an open meeting discussion may have a detrimental effect on the bargaining position of the public body.

**Motion Mr. Frieden to enter into executive session under the provisions of Massachusetts General Laws, Chapter 30A, Section 21(a), purpose 3 to discuss strategy with respect to litigation (Federal Multidistrict Litigation vs. CVS, Walgreens, Walmart, Teva, and Allergam and the Chair declares that an open meeting discussion may have a detrimental effect on the bargaining position of the public body, second Mr. Rucho.**

**Mr. Rajeshkumar declares that an open meeting discussion will have a detrimental effect on the bargaining position and will be adjourning following the session.**

#### **Roll Call Vote:**

*Roll Call Vote*

*Mr. Rajeshkumar, yes*

*Mr. Rucho, yes*

*Mr. Crowley, yes*

*Ms. Pedone, yes*

*Mr. Frieden, yes*

*All in favor*

**Motion** *Mr. Rucho moved at 7:05 p.m. to come out of executive session to adjourn, second Mr. Crowley.*

**Roll Call Vote**

*Ms. Pedone, yes  
Mr. Rajeshkumar, yes  
Mr. Rucho, yes  
Mr. Crowley, yes  
Mr. Frieden, yes  
All in favor*

**ADJOURN MEETING**

**Motion** *Ms. Pedone moved to adjourn at 7:05 p.m.; Mr. Frieden second.*

**Roll Call Vote**

*Mr. Frieden, yes  
Mr. Rucho yes,  
Mr. Crowley yes,  
Ms. Pedone, yes  
Mr. Rajeshkumar, yes  
All in favor  
Approved*

Respectfully submitted,

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Faye D. Zukowski, Municipal Assistant

Approved: \_\_\_\_\_

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Barur R. Rajeshkumar, Chairman

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Christopher A. Rucho, Vice Chairman

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Marc Frieden, Clerk

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Patrick J. Crowley, Selectman

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Kristina Pedone, Selectwoman