

Needham Finance Committee
Minutes of Meeting of September 28, 2022

The meeting of the Finance Committee was called to order by Chair John Connelly at approximately 7:00 pm in the Great Plain Room at Needham Town Hall.

Present from the Finance Committee:

John Connelly, Vice Chair; Louise Miller, Vice Chair

Members: Karen Calton; Barry Coffman; Carol Fachetti, Joshua Levy, Richard Reilly

Others present:

David Davison, Assistant Town Manager/Finance Director

Katie King, Assistant Town Manager/Operations

Adam Block, Chair, Planning Board

Jeanne McKnight, Vice Chair, Planning Board

Lee Newman, Director, Planning and Community Development (remote)

Citizen Requests to Address the Finance Committee

No requests.

Approval of Minutes of Prior Meetings

MOVED: By Ms. Miller that the minutes of the meeting of September 21, 2022, be approved as distributed, subject to technical or typographical corrections. Ms. Calton seconded the motion. The motion was approved by a unanimous roll call vote of 6-0. (Mr. Coffman had not yet arrived.)

Special Town Meeting Warrant Articles

Article 8: Amend Zoning By-law - Brew Pub and Microbrewery

Mr. Block stated that the Planning Board proposed this zoning bylaw in the spring, and due to feedback from the Finance Committee, the Town reviewed and updated alcohol licensing regulations to accommodate brew pubs and microbreweries. The bylaw sets up two additional classes of uses: brew pubs and microbreweries. The main difference relates to food: a brew pub is an eat-in restaurant that produces beer and no other alcohol, and has a primary business of food. A microbrewery is a brewery of limited production, with food available. The distinction is not based on the size of the location because of the large space needed for the fermenting equipment. He stated that the characterization of a restaurant versus a brewery is somewhat objective and depends somewhat on context. The measure of food being a primary versus a secondary business is objective, and based on volume of sales. He noted that alcohol cannot amount to more than 35% of overall sales under the Town liquor license requirements for restaurants. Another requirement is that no more than 40% of a brew pub's beer may be sold to other establishments. Ms. King stated that the alcohol regulations have been updated to accommodate brew pubs and microbreweries, which will each require different licenses under state and federal laws. Brew pubs will have the same alcohol license as a restaurant, while microbreweries need a Farmers Series Pouring Permit, which will not count against the maximum number of liquor licenses and will require food to be made available to patrons,

whether inside, or at a food truck. Mr. Block stated that the Town was originally approached by an interested business. The Planning Board feels that this will diversify types of businesses and provide “placemaking” which is an opportunity for people to be together. Ms. McKnight stated that there has not been a fiscal analysis, but the Planning Board expects this will have a positive effect. Mr. Block described the geographic area within the districts that the proposed zoning will apply to. Mr. Levy asked if this would mean that there are different permitted uses within different parts of these zoning districts. He noted that state law requires zoning to be uniform within a district. Ms. Newman stated that the Town Counsel’s firm had reviewed the proposed bylaw, but they could request a second look. She stated that this approach has been used before. Mr. Block added that these uses would be allowed only by special permit.

Ms. Fachetti asked if the fees would be the same as for current restaurants. Ms. King stated that the alcohol licenses of brew pubs and restaurants would be the same, and the same fees would apply. She added that the pouring license fee for beer and wine was reduced during the pandemic and remains at the reduced rate. Mr. Reilly asked if it would be reasonable to assume a positive economic impact without a fiscal analysis. Mr. Block stated that breweries will be larger than restaurants and will have more valuable personal property than a basic restaurant, so will certainly be expected to have higher personal property taxes. It is also expected that patrons who visit a placemaking operation often visit other businesses as well. Ms. Miller stated that brew pubs are supposed to be treated as restaurants, but the regulations regarding hours of sales for onsite and offsite consumption are not entirely lined up. She stated that the Finance Committee was concerned in the spring that different treatment of microbreweries and brew pubs that may not be fair to existing package stores and restaurants. Ms. King stated that the hours for on-premises sales are consistent for microbreweries, brew pubs and restaurants. The hours for beverages sold for off-premises consumption may differ because of state statutes. She stated that the Town can consider aligning the hours with those of package stores. That issue was not discussed, though all license holders were notified and provided opportunities to provide feedback on the proposed changes and no package stores responded.

Mr. Connelly asked how the Town would track whether 40% of the brew pub’s sales were made to other establishments. Ms. King stated that the Town Manager’s office tracks whether 35% of annual restaurant sales are alcohol since the Select Board is the local licensing authority, and they would track this. She stated that she did not expect further resources would be needed to enforce this restriction. Mr. Block stated that the Planning Board voted to in favor of the proposed bylaw changes with the change that it would remove the use from the Highway 1 district. Ms. Fachetti asked what has happened with the entity that first approached the Town to consider these changes. Mr. Block stated that it has been two years, and that they are tracking the situation. He stated that he understands that others are also interested, and these changes may bring them to the table as well. He noted that it is a great financial risk to go through the federal, state and local permitting process, and a challenge to find a landlord to hold space through that process with no revenue. He noted that the Select Board has licensing standards, and the Planning Board controls the use of space.

Ms. Miller asked how the local option tax applies. Mr. Davison stated that the meals tax would apply to the restaurant sales, and not to package stores or alcohol specifically for off-premises consumption. Mr. Connelly thanked the Planning Board and Select Board for hearing the Finance Committee’s concerns in the spring and making progress.

MOVED: By Mr. Reilly that the Finance Committee recommend adoption of Article 8: Amend Zoning By-law - Brew Pub and Microbrewery. He added that there seems to be no adverse financial impact, and these unique uses could improve business opportunities. Ms. Fachetti seconded the motion.

Mr. Levy stated that he had no objection with the substance of the motion, but before voting would like a legal opinion that this does not conflict with the state law requiring uniform zoning within districts. Mr. Coffman noted that the Committee was told that there was precedent for this. Ms. McKnight stated that is similar to overlay districts which are overlays on the map rather than zoning an area through a written description. Mr. Block stated that Town Counsel and another attorney in his office reviewed the proposed bylaw and found it compliant. Mr. Davison noted that zoning bylaws are reviewed by the Attorney General's office after Town Meeting, before they can take effect. Ms. Miller stated that there would be no harm in getting a legal opinion.

TABLED: Mr. Connelly stated that the motion could stand, but was tabled pending receipt of a legal opinion. Mr. Block directed the Town Planner to speak urgently to Town Counsel for an opinion whether the bylaw as written is compliant with state zoning laws.

Article 12: Rescind Debt Authorization

Mr. Davison stated that the Jack Cogswell building project has been completed and the PPBC voted to close out the project and to release \$2.218 million of available debt that was not needed. The final project cost was \$7.615 million, including \$1.382 million of free cash, \$944K of Sewer Enterprise Fund retained earnings, \$1.786 Water Enterprise Fund retained earnings, with the balance in debt. Mr. Connelly asked if any analysis has been done to know why there was so much available funding left. He stated that while it is good to be below budget, he is concerned that there is a pattern of high contingency funding. Mr. Davison stated that the bids were much lower than the cost estimates that the PPBC relied upon. The project was bid in a very favorable market. He stated that one year later, bids were coming in close to 100% of estimates. He agreed that this project had one of the higher percentages of turn-back.

Mr. Levy asked how much debt is available for future projects if this article passes. Mr. Davison stated that it depends on the type of borrowing and the length of time, but that this does not translate neatly to having \$2.2 million for another project. He stated whether this passes does not affect other articles in this warrant, but will come into play in his facility financing analysis.

MOVED: By Mr. Reilly that the Finance Committee recommend adoption of Article 12: Rescind Debt Authorization in the amount of \$2.218 million. Ms. Miller seconded the motion. The motion was approved by a vote of 7-0.

Town Stabilization Funds – Target Funding

Mr. Davison provided a handout and described the origins of the stabilization funds, their purposes, and proposed funding sources. He stated that in 2019, there was a question from Town Meeting about the targets or ceilings for the funds. He worked with members of the Finance Committee to develop a clear policy. That work was interrupted by the pandemic, and the conversation has resumed. A few changes are being proposed. One proposal is to change the description of Capital Improvement Fund (CIF) to remove the potential use for facility

improvements since the Capital Facility Fund (CFF) provides for facility improvements. The CIF would then be designated more narrowly for capital equipment. The appropriate target would be the cost of two of the most expensive pieces of equipment, which are currently a ladder truck and a fire engine, a total of \$3 million. He stated that no Town Meeting vote is needed for this change since the purpose was not specified in the original warrant article authorizing the fund. The recent CIF balance is \$1.1 million or 37% of that target. The source of funds in the past has been sources including sales of equipment, prior warrant articles and extra free cash, but he suggests allocating the annual proceeds from the sale of surplus equipment. Looking at a 5-year history, that would amount about \$300K per year. Mr. Reilly asked if there would be a proposal to transfer funds because of narrower scope of the CIF. Mr. Davison stated that there would not be.

Mr. Davison stated that the CFF purpose still covers existing facilities. The target funding level would be 1% of the current insured value of Town buildings, or \$4.2 million. He stated that there was an appropriation from the CFF in FY18 for the High School expansion. In FY19, \$1.8 million was appropriated to the CFF to restore that amount. This was due to a timing issue of when free cash was available for appropriation. He stated that a proposed potential funding source to reach the target funding in the CFF would be to use unspent funds from the Reserve Fund in the operating budget. He stated that that amount is volatile because it depends how much spending is needed for snow and ice related costs in a given year.

Mr. Davison stated that the Athletic Facility Improvement Fund (AFIF) has been used as a place to set aside funds for known expenses such as turf field replacement. The funding source has been athletic field use fees. The most recent target was \$2 million, including turf replacement and other athletic facility needs. Funds were appropriated for the turf replacement and Memorial Park building renovations.

Mr. Davison stated that the Debt Service Stabilization fund should be discussed after the Facility Financing Plan is update, in order to determine how much should be targeted to mitigate the impact of debt service costs in some of the coming years given the size of upcoming proposed projects. The Stabilization Fund is the true stabilization fund to protect against unknown significant costs. He would propose a ceiling of 3% of the prior year's operating budget. He stated that there is no proposed timing for reaching target funding levels, but the goal is to have a ceiling, an identified source of funds, and a methodology to explain to Town Meeting. He noted that these described targets will change with inflation. Mr. Connelly stated that he plans to provide a report at the Annual Town Meeting describing the stabilization funds and their sources and target funding levels.

Article 13: Capital Improvement Fund

Mr. Davison stated that this fund was chosen because the source was funds from the sale of surplus equipment and because this fund is farthest from its target funding level. Ms. Miller stated that the article says the funding is from the levy, and she wanted to make sure that taxes are not raised for putting money into a stabilization fund. Mr. Davison stated that it is the estimated amount that will be received into the general fund from the sale of equipment during FY23, and he expects there to be at least that amount.

MOVED: By Mr. Coffman that the Finance Committee recommend adoption of Special Town Meeting Warrant Article 13: Capital Improvement Fund in the amount of

\$351,662. Mr. Reilly seconded the motion. The motion was approved by a vote of 7-0.

Mr. Reilly noted that while it is good to set up reserves, it means freezing money. If all funds are at their target levels, \$12 million would be set aside. He stated that there should be a discussion if all of these vehicles are needed, and whether there should be just one fund with lower funding and more flexibility. He noted that the AFIF is different from the other funds because there is an intention to spend the funds at a specific time.

Updates:

There were updates on the expected submission of bids for the Emery Grover project. The subcontractor bids had been received, which constitute approximately 40% of the total bid, and indicate that the final bids may not exceed projected deficit of \$4.5 million.

Adjournment

MOVED: By Mr. Reilly that the Finance Committee meeting be adjourned, there being no further business. Ms. Calton seconded the motion. The motion was approved by a vote of 7-0 at approximately 8:33 p.m.

Documents: October 24, 2022 Special Town Meeting Warrant (09-28-22 draft); Memorandum from David Davison, Assistant Town Manager/Director of Finance to Finance Committee dated September 28, 2022, Re: Stabilization Funds.

Respectfully submitted,

Louise Mizgerd
Staff Analyst

Approved October 12, 2022