



City of Westfield, Massachusetts

MEETING MINUTES

RECEIVED

By City Clerk's Office at 10:53 am, 3/25/21

NAME OF COMMITTEE: Natural Resources

DATE: January 25, 2021

TIME: 7 PM

LOCATION: Municipal Building, 59 Court Street, Westfield, MA

ROOM NO: Remote

Chair Mello read the following:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the City of Westfield **Natural Resources Committee** will be conducted via remote participation. Specific information can be found on the City of Westfield website at www.cityofwestfield.org. For this meeting, members of the public who wish to listen to the meeting may do so by tuning into Channel 12 or online at Youtube.com. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the City's website an audio recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

1. Call to Order: Chair Mello called the meeting to order at 7:03 PM.
2. Roll Call: Chair Mello called the roll.
Councilor Allie - Here
Councilor Morganelli - Here
Councilor Mello - Here
3. Reading of the Record: Chair Mello stated there was no pending record to approve for at this meeting because the previous record was approved at the last meeting of the Natural Resources Committee held on December 19, 2019.
4. Public Participation: Councilor Matthews-Kane (81 Court St) spoke of her motion to investigate restarting BAPAC. She knows it will be a complex process involving several cities & towns. Her intention was to start investigating how best to go about this. She is willing to lend any assistance she can in the process.
5. Department Updates: Chair Mello informed the Councilors that there were no departmental updates for this meeting. This item is in the agenda as a place holder, a standing invitation for updates and exchange for any departments/ committees / commissions who need to come before

NRC.

Chair Mello then explained that agenda items 6 & 7 were written from the Items in Committee list that the Chair received from the City Clerk by email on Jan 12, 2021.

6. Old Business:

Motion by Councilor Allie that Chair Mello represent the Natural Resources Committee in the investigation of the entirety of the items under number 6 Old Business. (See agenda for full list.)
Second by Councilor Morganelli

Discussion: Councilor Morganelli stated that a lot of the items may have been previously answered, but would be good to review, and it's been a while since they've been addressed. Looking forward to hearing from the Depts on any of the questions yet to be answered.

Roll Call Vote:

Allie - Yes

Morganelli - Yes

Mello - Yes

Motion Passed.

7. New Business:

Motion of Councilor Matthews-Kane and Morganelli to investigate restarting the Barnes Aquifer Protection Advisory Committee (BAPAC) so it can provide Westfield recommendations for planned land use and development projects over the Barnes Aquifer in Westfield. Motion from January 7, 2021 council meeting.

Discussion: Councilor Morganelli discussed the January 20, 2021 memo from Assistant City Solicitor Reed explaining the Memorandum of Agreement that originally created BAPAC, and the opinion of the Law Department on this motion. (Memo attached to these minutes.) Councilor Morganelli offered to speak with Mayor Humason on this issue. Chair Mello thanked the Law Dept for their assistance on the item.

Motion by Councilor Morganelli to Hold in Committee until it can be explored further with Mayor Humason.

Second by Councilor Allie.

Councilor Morganelli agreed to keep Councilor Matthews-Kane apprised of the situation as it moves along.

Roll Call Vote:

Allie - Yes

Morganelli - Yes

Mello - Yes
Motion Passed.

8. Adjournment

Motion to Adjourn by Councilor Morganelli
Second by Councilor Allie

Discussion: Councilor Morganelli thanked Councilor Onyski, Council President Bean, and Councilor Matthews-Kane for attending, and thanked Peter Cowles for running the meeting. Councilors Allie & Mello joined him in thanking them.

[Chair notes in minutes that final roll call vote on Motion to Adjourn was inadvertently omitted.]

This meeting was Adjourned at 7:13PM.

END OF MINUTES

Natural Resources Committee

Consisting of three councilors whose duties and responsibilities shall include the investigation and report on all matters coming before the city council concerning the preservation and enhancement of all natural resources including, but not limited to, issues such as water, sewers and sewage treatment facilities, aquifer protection, and solid waste disposal. This committee shall work in conjunction with such member as appointed by the president to serve as liaison to the conservation commission. This committee shall have initial jurisdiction over the setting of sewer rates.

https://library.municode.com/ma/westfield/codes/code_of_ordinances?nodeId=PTIICOOR_APXARUCO_ARTI_ORMEPR_S27STCOENCOQU



Memorandum

City of Westfield, Massachusetts
Office of the City Solicitor

TO: Kristen Mello, Chair Natural Resources Subcommittee ✓

FROM: Shanna R. Reed, Assistant City Solicitor (SR)

DATE: January 20, 2021

SUBJECT: BAPAC motion

C: Councilor Bridgett Matthews-Kane
Mayor Donald F. Humason, Jr.

This memorandum is being written in response to the motion made by Councilor Matthews-Kane on January 7, 2021 to "investigate restarting the Barnes Aquifer Protection Advisory Committee so it can provide Westfield recommendations for planned land use and development projects over the Barnes Aquifer." This motion was sent to the Natural Resources Subcommittee, the Mayor and the Law department. To that end, I can offer the following:

Barnes Aquifer Protection Advisory Committee (hereinafter "BAPAC") was created by a Memorandum of Agreement citing M.G.L. c. 40, §4A (hereinafter "the statute") as its enabling authority. The statute, in its first sentence states "The chief executive officer of a city or town, or a board, committee or officer authorized by law to execute a contract in the name of a governmental unit may, on behalf of the unit, enter into an agreement with another governmental unit to perform jointly or for that unit's services, activities or undertakings which any of the contracting units is authorized by law to perform". All agreements made by communities citing the statute for the authority are generated from the chief executive officer.

Furthermore, the statute also asserts that the intergovernmental agreements made pursuant to said statute are limited in duration to twenty-five (25) years. The original MOA creating BAPAC was approved in June of 1989. Therefore, by operation of law, it expired in 2014. From 2014 until 2018 BAPAC was operating without any authority to do so.

Be that as it may, in addition to the expiration of the term of the MOA and the fact that it is within the purview of the chief executives of the communities, there were several

additional concerns with the manner in which BAPAC was operating including receiving money and establishing a bank account and acquiring interest in real property, to name just two, that are outside of the scope of authority granted by the statute¹. Furthermore, after considerable research, this office had advised that an Agreement using the statute as the enabling authority is not the best mechanism to achieve the goal that the communities were looking for in an advisory group. The statute is geared toward creating a shared services agreement between two communities², not a group established to advise and assist local communities in their policies and actions as they relate to growth, development and land use within the area of the Barnes Aquifer.

In light of the foregoing, it is clear that the authority to make the determination as to whether to move forward with other communities in a regional approach to ensure the management of the resource lies with the chief executives of each community. To that end, prior to the pandemic, the Mayors of Westfield³ and Easthampton met to discuss the desires and concerns of each of the stakeholder communities and the best way to move forward. Should Mayor Humason wish to revive the discussion with his Easthampton counterpart or other chief executives in the region, this office is prepared to assist.

Please advise should you need any further information.

¹ Additionally the MOA stated that the agreement applied to a Barnes Aquifer Region as shown on a plan entitled "Barnes Regional Aquifer System" as prepared by PVPC. It is important to note that PVPC has not been able to locate a copy of that plan so there is not a clear picture of what the expired MOA even had the authority to encompass.

² For example, MGL c.40 section 4A is the enabling authority to have a shared electrical services and plumbing agreement with the town of Southwick that allows for Westfield inspectors to do work in the Town of Southwick for a specific fee.

³ At the time former Mayor Brian Sullivan.