

Members Present:

Rob Barker, Nichola Gallagher, Cynthia Holcombe, Tim McKenna, Barbara Saint André and Cindy Thomas.

Members Absent: All members were present.

Guests Present:

Tom Scully, Chair, Planning Board
Laura Smead, Town Planner
Jim Murgia, Finance Director
Ellen Jones, Finance Committee Secretary

Opening: A meeting of the Canton Finance Committee was called to order by Chairman Barker at 7:02 pm. on Thursday, March 22, 2018 in the Upper Meeting Room of the Armando Recreation Center.

A. Approval of Agenda

Chairman Barker reviewed the items on the agenda which included a review of zoning articles with the Town Planner and Planning Board Chairman and the continuation of voting articles.

B. Announcements

Chairman Barker announced that there are three vacancies on the Finance Committee and interested residents should contact the Town Moderator.

C. New Business

Discussion of Zoning and Street Acceptance Articles with Tom Scully, Chair, Planning Board and Laura Smead, Town Planner

Ms. Smead opened up the discussion of the articles. She stated that there were two sets of hearings held on the articles: hearings by the Planning Board and hearings by the Board of Selectmen. Various categories of articles were being brought to Annual Town Meeting: marijuana articles (Articles 39 and 41), hotels and hotel overlay districts (Articles 42-46), economic development for limited industrial zones (Articles 47-53), housekeeping articles (Articles 54-58), street acceptance articles (Articles 26-36), a BOS rezoning article (Article 21) for 777 Dedham Street (Cumberland Farms) and a citizens article (Article 38) on the definition of convalescent homes and hospitals. The Planning Board voted favorably on all of the zoning and street acceptance articles.

Ms. Smead and Mr. Scully commented on the following Town meeting articles by category:

Articles 39-41 – Marijuana Recreational Facilities

- Articles 39 and 40 seek to ban recreational marijuana facilities. This is in response to the majority of the Town voting against the referendum.
- If Articles 39 and 40 pass at Town Meeting, Article 41 would help to regulate the location of recreational marijuana facilities.
- Ms. Smead referred to maps she prepared on GIS software on which she identified two small areas of town where these facilities would be allowed. Ms. Smead used criteria such as location of industrial zones, location of residential zones and a 500 foot buffer from the residential into the industrial which

eliminates all of the schools and areas where children congregate as well as additional buffers around the Canton Ice House Rink.

- It is assumed that the Town Moderator will cluster these articles at the pre-ATM organizational meeting on April 3rd.
- The Planning Board held hearings on Articles 39 and 41 but not on Article 40. Article 40 was sponsored by the BOS.
- Ms. Saint André stated that in many communities regarding marijuana articles it is being recommended that communities have “belts and suspenders”, which is essentially a zoning by-law to prohibit recreational marijuana facilities which requires 2/3 vote at Town Meeting. Then you have a general by-law which says the same thing but requires only a majority vote.
- The Finance Committee had already voted Articles 39 and 40 to prohibit recreational marijuana establishments as written in the article. They also had voted to postpone indefinitely Article 41.

Articles 42-44 – Hotel and Hotel Overlay District

- Ms. Smead stated that the Hotel Overlay District articles are an attempt to simplify the zoning code so that the Town would not need the Hotel Overlay District going forward.
- The Hotel Overlay District had been done to allow for the two hotels near Royall Street. Those parcels are zoned single residence C which hotels are not permitted in. Each hotel has roughly only 2½ acres.
- The Planning Board would not be supportive of approving hotels in a residential district. Hotels are currently allowed in all of the non-residential zones in Town either by right or special permit. There is an outdated requirement in the Limited Industrial zone. Most other towns do not have acreage requirements at all. Canton has acreage requirements only in limited industrial zones and no acreage requirements for other non-residential zones. The acreage requirement for limited industrial zones is currently 10 acres which may have been written at a time when hotels had more sprawling layouts.
- Currently the hotel overlay district has a minimum acreage for hotels at 2 acres.
- To protect the Town these articles will set the minimum acreage for all areas at 2 acres by special permit, rather than by right for all of the non-residential districts. This will give the Town more control over what will be a good fit. This will make stricter requirements for most of the zones but a less restrictive requirement in terms of acreage for a limited industrial zone.
- Residential zones are not affected by these articles because hotels are already not allowed in these areas.
- Canton currently has two hotels (one already operational and another one being built). One is an extended-stay hotel.
- Article 43 would delete the hotel overlay district.
- Article 45 would change the Table of Use.
- Article 46 is a housekeeping item. The parcels referenced in Article 46 relate to parcels on Royall Street. This Article would make these existing hotels non-conforming with pre-existing uses.
- Ms. Smead stated that the only area in Town where it would be easier to build a hotel would be in the limited industrial zone because of the minimum acreage being reduced from 10 acres to 2 acres.
- The primary concern that has come up during discussion of these articles is people living in the hotels for extended periods of time and having school-age children residing in them. The Planning Board is looking at the extended piece of the by-laws as well. By special permit the Planning Board would be allowed to restrict whether or not a hotel could be an extended stay hotel or not.

Articles 47-53 – Economic Development in Limited Industrial Zone

- Ms. Smead stated that most of these articles are more “housekeeping” articles than economic development.
- Article 47 is a housekeeping article and is essentially adding in a cross reference to another part of the zoning by-laws.
- Article 48 - The goal of Article 48 is to treat parking garages as any other building. The only requirement being changed is the setback. The Planning Board is suggesting eliminating the side yard width be not less than 60 feet. The default would become 25 feet.

- Article 49 is a housekeeping article. This article is to clarify the zoning by-law around enclosures in Business and Limited Industrial Districts. This by-law would clarify exceptions of uses to be conducted within a completely enclosed building.
- Article 50 would allow for more diversity of office uses in Limited Industrial zones.
- Article 51 would correct an error in the Zoning By-Laws specifically for motor vehicle fuel facilities.
- Ms. Saint André questioned if the definition of motor vehicle fueling station is a gas station. Her interpretation is that it could almost be an industrial motor vehicle station such as a Citgo terminal. She quoted “directly or indirectly related to the motor vehicle trade” and questioned what this meant. Ms. Smead’s interpretation is that it is meant to be only gas stations. Mr. Scully stated that it could relate to the DPW fueling station for non-standard vehicles such as fire trucks. Mr. Scully and Ms. Smead would look further into the definition of “motor vehicle”.
- Article 52 would expand uses as a special permit in Limited Industrial zones.
- Article 53 would update the Zoning By-Laws to make side yard width for 52 foot buildings consistent between Limited Industrial Districts and Industrial Districts in exceptional cases.

Articles 54-59 – Housekeeping and Clarification Articles

- Article 54 would clarify the definitions of lot frontage and lot width by adding the language “parallel to the frontage” to Lot Frontage and “Through the Principal Dwelling/Building” to the title “Lot Width”. This will give property owners a consistent place to do measurements. This was enforced in hearings but was never documented in the By-Laws.
- Article 55 will add in setback distance for accessory structures which had been omitted when the table was changed a few years ago. Also accessory structures are being added back into the by-law.
- Article 56 will make small changes to wording in the required column description for clarity. Also some corrections will be made in the motion because accessory structure set backs were accidentally excluded from the language in the article.
- Article 57 will help to clarify language to make the table more consistent with other dimensional requirement tables.
- Article 58 was at the recommendation of the Building Commissioner. This article will increase the required parking for detached dwelling units (such as a single family house) from one space to two spaces.

Article 38 – Amend Zoning By-Laws regarding Definitions of Nursing or Convalescent Home and Hospital

- Mr. Scully stated that this is a citizens article and that Town Counsel has given the opinion that Article 38 may not be legal.
- He further stated that the Planning Board voted in favor of Article 38 because the Planning Board was of the opinion that there needed to be more discussion and debate at Town Meeting.
- Mr. Scully stated that if Article 38 were to pass at Town Meeting and it was deemed to be legal, it would have no significant effect on the particular parcel that is being discussed at the Zoning Board Meeting that night.
- Mr. Scully is of the opinion that the current zoning does not permit the use on the parcel that they are looking for as it stands.
- He strongly believes the discussion should continue.
- The Planning Board is in favor of the two definitions being proposed under Article 38, however, there would most likely be a substitute motion on the floor of Town Meeting that “would pass muster” with Town Counsel and the Attorney General. Chairman Barker asked as to why this substitute motion could not be addressed now. Mr. Scully stated that the intention is not to pass something to Town Counsel on the floor of Town Meeting in which he will be asked to make a last minute judgement call, but rather that the proponent of the Article would work with Town Counsel and have it reviewed well before Town Meeting.
- In response to Chairman Barker’s questions about this Article, Mr. Scully stated while he is not on the Zoning Board, he is of the opinion that under the current Zoning By-Laws the proposed facility is not a convalescent home. Mr. Scully further stated that if even if the Zoning Board rules that it is a permitted use, Article 38 has no impact on this project because there is a zoning freeze on the parcel because plans

were submitted before this Article was submitted to prohibit it. If it is a permitted use then it would have the permitted use in all other locations that has the same zoning.

- Ms. Smead is in favor of working together with the Planning Board, Zoning Board and Building Commissioner to put together one or more zoning articles that would update the Town's definitions to account for other medical facilities besides hospitals and convalescent homes. Her understanding is that the purpose of this article is to back up the opinion of the Building Commissioner. The Building Commissioner, with Town Counsel, had provided the opinion that this facility does not meet the definition of a convalescent home or a hospital. She further stated that this article excludes without including and does not provide the definition of medical facilities or clinics or in-patient or out-patient. This may have to be coupled with changes to the Table of Use. Definitions have to be grouped like with like and have rationale documented reasons for why one type of use might be more detrimental than another type of use. Canton is not alone in its Zoning By-Laws with regard to addressing addiction services.
- Finance Committee members asked Mr. Scully and Ms. Smead as to why they would not postpone indefinitely if this needs more thought and research. Mr. Scully stated that residents want to have the conversation. If the conversation is not allowed residents may think that something is amiss and that town officials are not listening to the concerns of the residents.
- Chairman Barker wanted to clarify that Article 38 does not affect the existing proposed use of the property in question even though the whole purpose of the citizens article is to prevent that use for this parcel. Chairman Barker stated that he does not feel Town Meeting is the best place for "free wheeling open conversation" on what superficially appears to be a NIMBY article (not in my back yard) over what kinds of medical uses are permitted and which ones are not. Chairman Barker further stated that he is not trying to take away from the zoning interests creating by-laws that reflect different uses, but this Article is being tailored to a specific need. He does not see why if this does not apply to the property in question then why allow the discussion to take place at Town Meeting. Chairman Barker is looking for something unbiased.
- Ms. Saint André stated that Article 38 is attempting to change the Zoning By-Laws and does not have an effect on the facility being proposed on Turnpike Street. This change to the Zoning By-Law will have an affect across the board on many other parcels. She stated that she was looking for an opinion as to whether or not Article 38 would be a good policy for the Town. In his opinion, Mr. Scully stated this is a bad policy and would not hold up legally. Ms. Saint André further stated that if this is not a good policy then it should not be recommended to Town Meeting. Mr. Scully respects the opinion of the Finance Committee but the Planning Board applied the rationale that the discussion needs to take place now.
- Because Article 38 is a citizen article, there will not be a motion by the Planning Board to Town Meeting. The motion will be made by the Finance Committee.
- Mr. Scully stated that if there is a substitute motion that addresses all of the concerns then Town Meeting should move forward with it.

Articles 26-36 - Street Acceptances

- There are four separate subdivisions with regard to the street acceptance articles.
- Article 26 – Colts Crossing – Southfield Estates – There is approximately \$17,000 of remaining funds left from the developer to complete the street. Mr. Murgia reported that the bids came in that afternoon at a cost of \$70,000. The citizens approached the Town about having lights fixed and found out at that time that the street had not been accepted by the Town. Greater than 75% of the residents are willing to pay a betterment to have the street completed.
- There is approximately \$17,000 of remaining funds left from the developer to complete the street. Mr. Murgia reported that the bids came in that afternoon at a cost of \$70,000. The motion for Article 26 would involve collecting funds from the residents for the remaining balance. Town Counsel has stated that the BOS has the authority to assess a betterment on the residents and does not need Town Meeting Approval. The borrowing of funds to complete the project would have to be approved by Town Meeting. No work can be done on the roads until the street has been accepted.
- Ms. Saint André inquired if the residents would be signing over deeds to the Town for the easements. Mr. Scully stated that the Town would own the streets. Ms. Saint André stated that in most of her dealings

with street acceptances the Town does not own the streets and would take an easement on the street for future repairs. Ms. Smead stated that at Colts Crossing the developer has turned the deed for the street over to the homeowners association.

- Articles 27-30 (Knob Hill Estates) and Articles 35-36 (Washington Commons) - These other two developments will also fall under the betterment process and the Town will borrow funds to complete the projects.
- Articles 31-34 (The Preserve at Canton) – The developer has enough remaining funds in the surety account to complete the streets for this development.

Article 21 – Vote to Amend Zoning By-Laws – Limited Industrial (B) and Limited Industrial (C)

- Ms. Smead referred to a map for the 777 Dedham Street which is the former Cumberland Farms site. This is a 43D priority development site for the Town.
- A development by Top Golf is being proposed for the site.
- There were concerns by Top Golf under the current existing Zoning By-Laws. They proposed to rezone the area with Limited Industrial (C). The Zoning Board, the Town Administrator and the Town Planner reviewed these changes. There is a parcel with no access in the middle of the site which is owned by DCR. This parcel cannot be developed because it is wetlands. The Town Planner does not see any harm in this parcel being rezoned as Limited Industrial (C).
- The language would allow them to implement a Top Golf facility. If this developer were to back out the site would be rezoned to allow anything that would be allowed in a Limited Industrial (C) zone.
- This property, if rezoned, would be the only Limited Industrial (C) zoned property in Canton.

The Finance Committee thanked Mr. Scully and Ms. Smead for their hard work on these articles and their very helpful explanation of them.

D. Other Business/Open Issues

The Finance Committee voted the following articles:

Vote - Article 9 Motion 5 – Adjust Fiscal '18 Accounts – School Department SPED Budget

A motion made by Ms. Saint André that \$600,000 be appropriated to the Special Education Reserve Account (#250) by transfer from Free Cash (Undesignated Fund Balance) in the Treasury of the Town with the intent that said funds shall be available in FY18 was seconded by Ms. Gallagher. By transferring this appropriation into the Special Education Reserve Account it will require a vote by the School Committee and the Board of Selectmen to access the funds. **Vote: 6-0-0.**

Article 9 Motion 5– Adjust Fiscal '18 Accounts – Snow & Ice Budget

A motion made by Ms. Saint André that \$100,000 be appropriated to the Snow and Ice Budget was seconded by Ms. Gallagher. Mr. Murgia suggested that the Committee wait to vote on this transfer until the Snow and Ice Budget has been updated with expenses incurred as a result of the most recent snow storms. A vote was not taken on the motion.

Vote - Article 18 –Additional Local Appropriation to Supplement the Commonwealth’s Chapter 90 Roads Program

A motion made by Ms. Saint André that \$500,000 be appropriated to be spent by the Board of Selectmen acting as the Board of Public Works to supplement the amount received from the Chapter 90 Roads Program with improvements done in accordance with improvement specifications as determined by and subject to the approval of the Department of Public Works and consistent with locations identified in the Town's Pavement Management System and to meet said appropriation \$500,000 be transferred from Free Cash (Undesignated Fund Balance) in the Treasury of the Town was seconded by Ms. Holcombe. Ms. Thomas recused herself.
Vote: 5-0-0.

Vote - Article 17 – Increase Stabilization Fund

A motion made by Ms. Gallagher that \$500,000 be transferred for the Fiscal Year ending June 30, 2018 from Free Cash (Undesignated Fund Balance) of the Town to the Town Stabilization Fund was seconded by Ms. Holcombe.
Vote: 6-0-0

Vote - Article 20 – Vote to Authorize the BOS to Amend the First Amended and Restated Development Agreement with Canton Holdings, LLC

A motion made by Ms. Saint André that Board of Selectmen be authorized to amend Section 11.6 of the First Amended and Restated Development Agreement dated April 28, 2015 between the Board of Selectmen and Canton Holdings, LLC by deleting the second grammatical sentence of Section 11.6 thereof and replacing it with the following sentence:

“The parties acknowledge and agree that no modifications or amendments to this Agreement shall be made unless and until a duly noticed public meeting has been held by the Board regarding such proposed modification or amendment, which proposed modification or amendment shall require a super majority vote of the members of the Board at a meeting at which a quorum is present for its passage.”

was seconded by Ms. Gallagher. Vote: 6-0-0.

Vote - Article 21 – Vote to Amend Zoning By-Law Sections 2.1 and 6.0 Industrial Districts by adding “Limited Industrial (B)” and “Limited Industrial (C)”

A motion made by Ms. Saint André that the motion presented by the Planning Board to Town Meeting for Article 21 as written in the warrant be adopted was seconded by Ms. Thomas. Vote: 6-0-0.

Vote - Article 23 – Tax Increment Financing/Special Tax Agreement at 100 Royall Street

Vote - Article 24 – Tax Increment Financing/Special Tax Agreement at 1895 J.W. Foster Blvd.

Mr. Murgia informed the Committee that the Reebok property has been sold for \$88 million. A tenant has not been identified yet, but once identified the tenant will most likely be looking for a TIF from the Town. Articles 23 and 24 were placed on the Town Meeting warrant as placeholders in case a TIF was to be negotiated.

A motion made by Ms. Saint André that the subject matter of Article 23 be indefinitely postponed was seconded by Ms. Gallagher. Vote: 6-0-0

A motion made by Ms. Saint André that the subject matter of Article 24 be indefinitely postponed was seconded by Ms. Holcombe. Vote: 6-0-0

Articles 26-36 - Street Acceptance Articles

Ms. Saint André recommended to the Finance Committee that the BOS motion in the warrant be adopted, however, she stated that the Finance Committee would not be able to vote until the BOS held their hearings that were scheduled for April 10. She further stated that Town Meeting would not be able to accept the streets until the BOS has accepted them.

Vote - Article 38 – Amend Zoning By-Laws Section 11.0 Definitions of Nursing or Convalescent Home and Hospital

A motion made by Ms. Saint André that the subject matter of Article 38 be indefinitely postponed was seconded by Ms. Thomas.

Chairman Barker made a statement that it was difficult for the Finance Committee to vote on Article 38 given the fact that it is predicated on an article/motion that will be presented at Town Meeting and that the Committee has no knowledge or details of said motion. He also stated that the article was not ready for Town Meeting and that the language needs committee review by various boards and committees as well as legal review.

Vote: 6-0-0.

Vote – Articles 42-58 – Amend Zoning By-Laws – Various Articles

A motion made by Ms. Saint André that the Finance Committee recommends that the motions presented by the Planning Board to Town Meeting for Articles 42-58 as written in the warrant be adopted was seconded by Ms. Holcombe. Vote: 6-0-0.

Vote – Article 4 – “Consent Agenda”

A motion made by Ms. Saint André that articles be disposed of by a single vote, in accordance with the Finance Committee motions as printed in the report of the Finance Committee: 5, 6, 8, 9, 10, 11, 13, 14, 16, 22, 23 and 24. Ms. Gallagher objected to Article 14 (Funding for the Annual 4th of July Celebration) being included in the Consent Agenda. Article 14 was removed from the motion.

A motion made by Ms. Saint André that articles be disposed of by a single vote, in accordance with the Finance Committee motions as printed in the report of the Finance Committee: 5, 6, 8, 9, 10, 11, 13, 16, 22, 23 and 24 was seconded by Ms. Thomas. Vote: 6-0-0.

Mr. Murgia stated that the Consent Agenda would most likely be readdressed after the pre-ATM planning meeting with the Moderator on April 3 and that the Finance Committee will probably have to revise it based on the Moderator’s suggestions.

Vote – Article 60 – Vote to Authorize Disposition of Gridley School

Vote – Article 61 – Vote to Authorize Disposition of Water-Sewer Storage Building

The Finance Committee discussed that they had not received enough information as to the cost involved in the repair or demolition/disposition of these two buildings. They are aware that the BOS sub-committee formed to review these projects was still meeting and gathering information, however, the Finance Committee was unsure if they would receive information to make a recommendation for Annual Town Meeting.

A motion made by Ms. Saint André that the subject matter of Article 60 as printed in the warrant be indefinitely postponed. Vote: 6-0-0.

A motion made by Ms. Saint André that the subject matter of Article 61 as printed in the warrant be indefinitely postponed. Vote: 6-0-0.

Vote – Articles 31-34 – Street Acceptance – The Preserve aka Turtle Creek

The Finance Committee had been informed that Articles 31 through 34 had a punch list that was in the process of being completed by the developer and that there would be no appropriation or borrowing involved for these four articles.

A motion made by Ms. Gallagher that Articles 31 through 34 be adopted as written in the warrant was seconded by Ms. Holcombe. Vote: 5-0-1. Ms. Saint André abstained from the vote.

E. Approval of Minutes

motion made by Ms. Holcombe to approve the minutes for March 1, 2018 was seconded by Mr. McKenna. Vote: 5-0-1. Ms. Thomas abstained as she had not reviewed the minutes yet.

The minutes for March 8 and March 14 would be approved at a future meeting.

Chairman Barker reminded the Committee members that the Article discussions were due by the end of the following week and that the Chair, Tim and the Finance Committee Secretary would be reviewing the discussions first.

F. Next Meeting Date: The next meeting date is Monday, March 26, 2018 at 7:00 p.m. in the Salah Meeting Room of Town Hall with members from the School Committee and School Department and with members from Blue Hills Regional Technical School.

Adjournment: A motion made by Ms. Thomas to adjourn the meeting at 9:15 p.m. was seconded by Ms. Gallagher. Vote: 6-0-0

Minutes reviewed by: Cynthia Holcombe

Respectfully submitted,



Rob Barker
Chairman, Canton Finance Committee