

For Approval 12-9-2014

**TOWN OF WESTFORD  
BOARD OF SELECTMEN  
EXECUTIVE SESSION MINUTES**

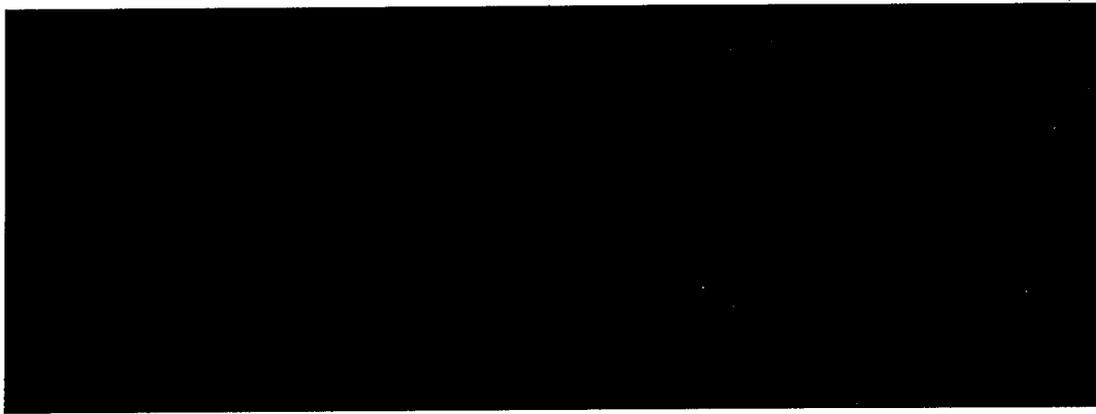
**DATE:** November 3, 2014  
**TIME:** 8:00 AM  
**PLACE:** Town Hall Meeting Room  
**PRESENT:** Kelly Ross, Don Siriani (arrived at 8:07am), Scott Hazelton, Andrea Peraner-Sweet, Jim Sullivan  
**ABSENT:**  
**OTHERS**  
**PRESENT:** Jodi Ross, Town Manager; John Mangiaratti, Assistant Town Manager; Mark Kost, Finance Committee Chair; Tom Clay, School Committee Chair; Bill Olsen, School Superintendent

**EXECUTIVE SESSION**

At 8:02 am the board voted by roll call to go into Executive Session for the following matters:

- To discuss strategy with respect to collective bargaining with the Westford Education Association, as an open meeting may have a detrimental effect on the bargaining position of the town
- To consider the purchase, exchange, lease, or value of the Adams Property located at 41-43 & 46 Lowell Road, as an open session may have a detrimental effect on the negotiating position of the public body
- To discuss strategy with respect to litigation, related to the Drew Gardens property located at 66-68 Boston Road, as an open meeting may have a detrimental effect on the bargaining or litigation position of the town

(Selectman Peraner-Sweet-yes, Selectman Ross-yes, Selectman Hazelton-yes, Selectman Sullivan-yes)



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Town Manager Ross presented an update from Town Counsel regarding the Drew Garden property located at 66-68 Boston Road. The deadline given by the judge for the property owner, Tom Goddard, to remove all compost from the property has passed. Town Counsel has recommended that the town approach Goddard and ask him to comply with the court order before we go back to the judge to report that Goddard is still in violation.

Roll call vote out of executive session at 9:17 am: Selectman Peraner-Sweet-yes, Selectman Ross-yes, Selectman Hazelton-yes, Selectman Siriani-yes.

Jodi Ross 12/9/14  
Jodi Ross, Town Manager date

J. Scott Hazelton 12/9/14  
J. Scott Hazelton, Chairman date

Submitted by Jodi Ross

For approval 1-12-16

**TOWN OF WESTFORD  
BOARD OF SELECTMEN  
EXECUTIVE SESSION MINUTES**

**DATE:** November 24, 2015

**TIME:** 9:15 PM

**PLACE:** Town Hall Second Floor Meeting Room

**PRESENT:** Kelly Ross, Andrea Peraner-Sweet, Scott Hazelton, Mark Kost, Don Siriani

**ABSENT:**

**OTHERS**

**PRESENT:** Jodi Ross, Town Manager; John Mangiaratti, Assistant Town Manager; Chris Kluchman, Director of Land Use Management; Drew Gardens Task Force Members: Kate Hollister, Bob Boonstra, Charlie Andrews, Keith Bohne, Jane Calvin, Bob Waskiewicz, and Joyce Minosh

**EXECUTIVE SESSION ITEMS 1 & 2**

At 9:15 pm the board voted by roll call to go into executive session:

- 1) Joint Executive Session with the Drew Gardens Task Force to consider the purchase, exchange, lease, or value of the Drew Gardens property located at 66-68 Boston Road, as an open session may have a detrimental effect on the negotiating position of the public body
  - 2) to consider the purchase, exchange, lease, or value of the Adams Property located at 41-43 & 46 Lowell Road, as an open session may have a detrimental effect on the negotiating position of the public body.
- (Peraner-Sweet – yes, Siriani–yes, Ross–yes, Hazelton–yes, Kost–yes)

**Drew Gardens Task Force**

Selectman Peraner-Sweet spoke on behalf of the Drew Gardens Task Force and described the process used to develop the task force's recommendations which included meetings with Ebi Masalehdan and the abutters. There was significant interest and many concerns raised from the abutters in the first presentation of the proposed project at a task force meeting. The task force indicated that these concerns were all addressed by the Mr. Masalehdan in subsequent revisions to his proposal.

The task force unanimously recommended that the Board of Selectmen not exercise its right of first refusal. The following reasons were given as justification for this recommendation:

- The task force determined that the only feasible way to revitalize this property is to allow some sort of commercial or retail use to offset of the agricultural operations
- The property continues to deteriorate
- Town ownership would create new challenges and there are limited resources available to take on the responsibility of cleaning up the property and determining how the town would utilize the property

- The Agricultural Commission is not able to take on the responsibility of caring for this property
- The task force was very supportive of the proposed plan to revive the apple orchard
- The developer is financing the agricultural portion of the project which will be managed by Springdell Farms so it has less risk of failing due to challenges typically faced by small agricultural operations
- The developer received a glowing recommendation from the town of Groton

The task force also recommended that the Selectmen use the agricultural preservation restriction (APR) to negotiate modifications to the proposal.

Selectman Kost asked if the abutter concerns such as screening, lighting, and noise have been addressed.

Selectman Siriani asked what changes have occurred in the proposed project.

Chris Kluchman responded that the developer has reduced the parking lot size from what was originally proposed, and other neighborhood concerns would be addressed in the permitting process if the project moves forward. The developer has also reoriented his concept plan to have all of the commercial use occur on APR#3 and has committed to constructing a sidewalk along Boston Road the entire length of the property.

Selectman Hazelton commented that the APR does not appear to allow function rooms or pavement on the site, but he would be comfortable as long as Town Counsel says that we may allow it.

Selectman Kost commented that while he is not in love with the concept of turning this farm stand into a restaurant, he recognized that the town has many other properties to manage and we do not have the resources to take ownership of this challenging property.

Task force member Bob Boonstra suggested that the town consider holding a joint boards public hearing so that all of the boards and committees have an opportunity to learn about the project and ask questions of the developer without requiring multiple hearings.

Kate Hollister moved to adjourn the task force and they adjourned through a roll call vote.  
*The task force left the meeting at 9:35pm.*

#### Drew Gardens Discussion with Town Counsel

*Town Counsel Gregg Corbo joined the executive session remotely via telephone.*

Selectman Ross asked Town Counsel whether a restaurant would be allowed under the APR.

Town Counsel indicated that the proposed project would not be allowed as-of-right, but the board does have three potential options to consider that would allow this project to move forward. The options are as follows:

1. Take no action, let the buyer execute the purchase and sales agreement and let the project move forward as proposed to the permitting process. The APR is enforceable at the board's discretion and the board could choose not to enforce certain terms. An appeal court ruled that abutters cannot compel a board to enforce its APR. The downside of this option is that the buyer has no security and a future board may choose to enforce the APR.
2. Approve the project in accordance with the APR by exercising the board's discretion within the APR to interpret the conditions of the APR. Section C states that non-

agricultural retail and other certain activities are allowed with written approval of the board. Paragraph 3 sets out the process for providing permission. The downside of this option is that the conditions may not allow new construction or major renovation (new construction has been proposed). The board could waive this provision but there is a risk of legal challenge because the APR does not specifically provide for waivers.

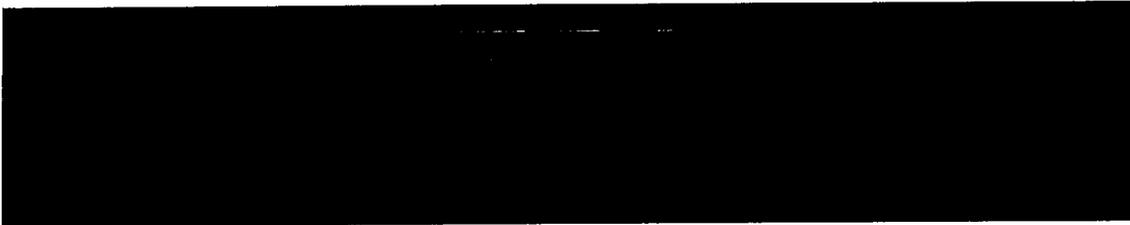
3. Take necessary actions to release or amend the APR so that a restaurant would be allowed. This is the most durable option. The board would have to ask Town Meeting to rescind or amend the APR #3 to remove the obstacles in the APR and in doing so would give the developer security that the use would be allowed. An alternative to this option is to buy the property and issue an RFP for a use similar to what has been proposed. Town ownership would effectively remove the APR, so the purchaser would not have to adhere to the current APR conditions.

Selectman Ross asked what if we go with option 2 and the project gets built and then we lose a legal challenge. Town Counsel responded that our approval would trigger a timeframe for appeal.

The board discussed that before deciding not to exercise the right of first refusal, it is necessary to have a written agreement with the developer to address concerns that have been raised and ensure that the project does not change significantly from what has been proposed.

Town Counsel suggested reaching out to the Massachusetts Department of Agricultural as they may wish to exercise their authority over the APR.

The board asked Town Counsel to draft a written agreement of terms for the board to consider at their December meeting.

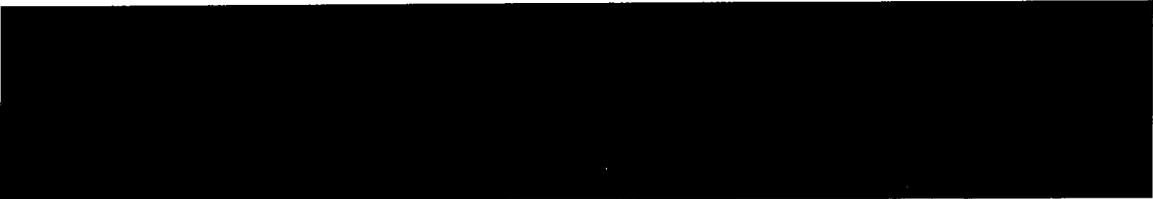


Selectman Peraner-Sweet made a motion to adjourn executive session, seconded by Selectman Kost, all present voted via roll call 5-0 (Peraner-Sweet-yes, Ross-yes, Kost-yes, Siriani-yes, Hazelton-yes). The Board voted at 10:35 p.m. to come out of executive session.

### EXECUTIVE SESSION ITEM 3

Selectman Peraner-Sweet made a motion to enter executive session for item 3) as listed on the agenda to discuss collective bargaining negotiations, with the Westford Education

Association, as an open meeting may have a detrimental effect on the bargaining position of the town, seconded by Selectman Kost, all present voted via roll call 4-1 (Peraner-Sweet-yes, Ross-yes, Kost-yes, Siriani-no, Hazelton-yes).



Selectman Hazelton made a motion to adjourn, seconded by Selectman Kost, all present voted via roll call in favor 5-0 (Peraner-Sweet-yes, Ross-yes, Kost-yes, Siriani-yes, Hazelton-yes). The Board voted at 10:44 p.m. to come out of executive session.

Jodi Ross 1-12-16  
Jodi Ross, Town Manager date

Kelly J Ross 1-14-16  
Kelly Ross, Chairman date

Submitted by John Mangiaratti, Assistant Town Manager

For approval 1-12-16  
**TOWN OF WESTFORD**  
**BOARD OF SELECTMEN**  
**EXECUTIVE SESSION MINUTES**

**DATE:** December 8, 2015

**TIME:** 7:00 PM

**PLACE:** Town Hall Second Floor Meeting Room

**PRESENT:** Kelly Ross, Andrea Peraner-Sweet, Mark Kost, Don Siriani,  
Scott Hazelton (remote participant)

**ABSENT:**

**OTHERS**

**PRESENT:** Jodi Ross, Town Manager; John Mangiaratti, Assistant Town Manager; Dan O'Donnell, Finance Director; Chris Kluchman, Director of Land Use Management

**EXECUTIVE SESSION**

At 7:00 pm the board voted by roll call to go into executive session:

- 1) To consider the purchase, exchange, lease, or value of the Drew Gardens property located at 66-68 Boston Road, as an open session may have a detrimental effect on the negotiating position of the public body.
- 2) To discuss strategy in preparation for collective bargaining negotiations with Communications Workers of America (CWA).  
(Peraner-Sweet – yes, Siriani–yes, Ross–yes, Kost–yes)

*Selectman Hazelton joined remotely via telephone and confirmed that he was alone*

Drew Gardens

Chris Kluchman reported that the Department of Agricultural raised concerns about the proposed project at 64-66 Boston Road, but that the agency does not have any authority over the APR, and likely would not block a redevelopment effort.

Selectman Siriani asked what if we amend the APR and then the developer sells the property to someone who has less desirable plans for the site?

Kluchman indicated that any future sale of the property would still be subject to the town's right of first refusal as long as the amended APR retains this language.

Selectman Hazelton asked if they could build a new greenhouse on the parcel that is part of APR #2. Kluchman indicated that since a greenhouse is agricultural, that it would be allowed.

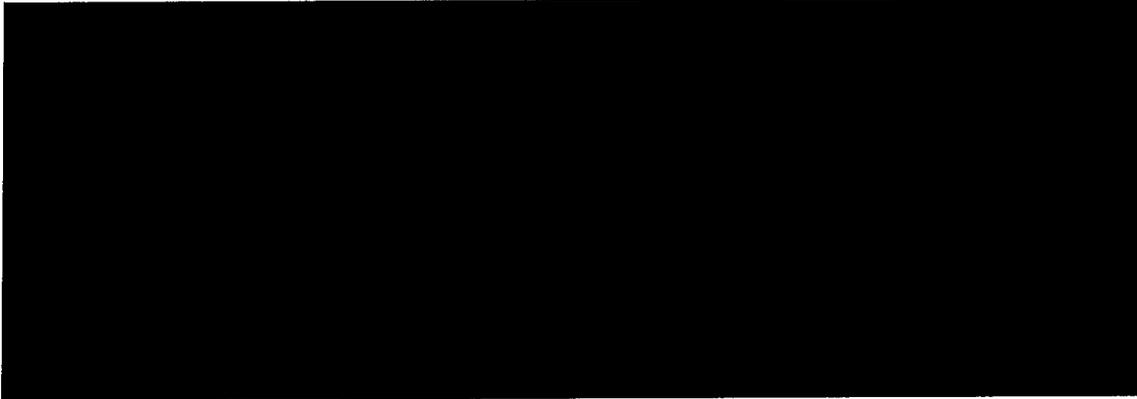
Selectman Siriani indicated that he prefers option 3 as outlined in 11/24/2015 executive session because it includes Town Meeting involvement to amend the APR.

Selectmen Peraner-Sweet indicated that we may make our decision not to exercise our right contingent on reaching an agreement with the developer.

The board discussed that requesting compensation from the developer for modifying the APR could be part of the written agreement.

Town Manager Ross suggested that the board announce in open session its intentions to not exercise its right pending successful negotiations with the developer. This would provide public notice of the board's intent and present an opportunity for the public to comment.

*Chris Kluchman left at 7:25 and Dan O'Donnell joined the meeting*



Selectman Siriani made a motion to adjourn, seconded by Selectman Kost, all present voted via roll call in favor 5-0 (Peraner-Sweet-yes, Ross-yes, Kost-yes, Siriani-yes, Hazelton-yes). The Board voted at 7:33 p.m. to come out of executive session.

Jodi Ross 1-11-16  
Jodi Ross, Town Manager date

Kelly Ross 1-11-16  
Kelly Ross, Chairman date

Submitted by John Mangiaratti, Assistant Town Manager.

*For approval 2-23-16*  
**TOWN OF WESTFORD  
BOARD OF SELECTMEN  
EXECUTIVE SESSION MINUTES**

**DATE:** January 12, 2016

**TIME:** 7:00 PM

**PLACE:** Town Hall Second Floor Meeting Room

**PRESENT:** Kelly Ross, Andrea Peraner-Sweet, Mark Kost, Don Siriani,  
Scott Hazelton

**ABSENT:**

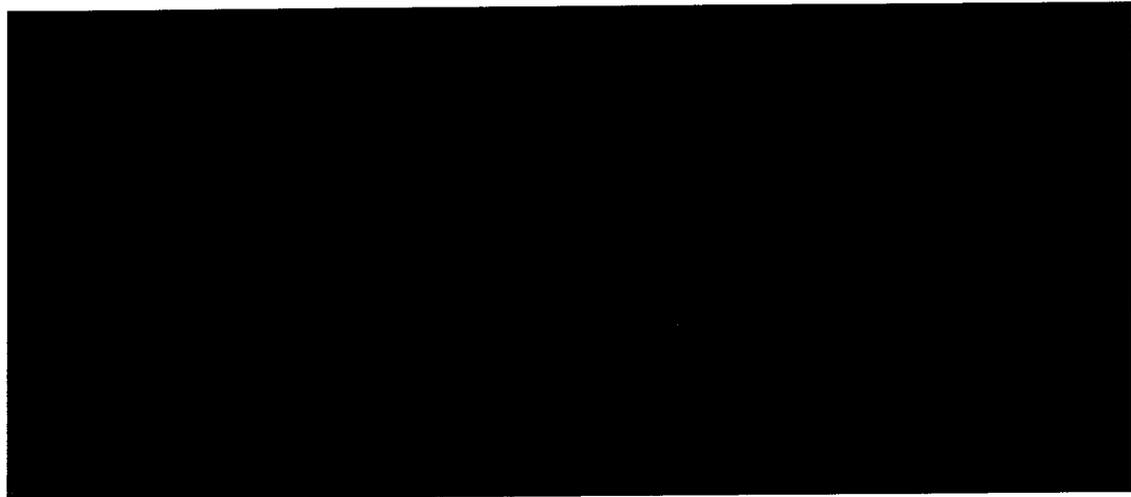
**OTHERS**

**PRESENT:** Jodi Ross, Town Manager; John Mangiaratti, Assistant Town Manager; Chris Kluchman, Director of Land Use Management; Mike Green, Planning Board member; Town Counsel Jonathan Silverstein (remote); Town Counsel Gregg Corbo (remote); Greg Johnson, Project/Procurement Specialist;

**EXECUTIVE SESSION**

At 7:00 pm the board voted by roll call to go into executive session:

1. To receive an update on litigation for Newport Materials, LLC, et al v. Westford Zoning Board of Appeals, et al and v. Planning Board of Westford, et al, as an open session may have a detrimental effect on the litigating position of the public body.
2. To consider the purchase, exchange, lease, or value of the Drew Gardens property located at 66-68 Boston Road, as an open session may have a detrimental effect on the negotiating position of the public body.
3. To consider the purchase, exchange, lease, or value of the Adams property located at 41-43 and 46 Lowell Road, as an open session may have a detrimental effect on the negotiating position of the public body.  
(Hazelton=yes, Siriani=yes, Ross=yes, Kost=yes)





*Town Counsel ended his remote participation, Mike Green left the meeting, and Selectman Peraner-Sweet joined the meeting.*

Drew Gardens

Chris Kluchman presented the agreement with Ebi Masalehdan to not exercise the town's right of first refusal and allow the buyer to proceed with his proposed project at 66-68 Boston Road. The agreement requires the buyer to construct a sidewalk along the entire frontage of the property, requires a payment of \$50,000 in consideration of release of the agricultural preservation restriction (APR) requirements on the one parcel, and does not provide any guarantees to the buyer with regards to the permitting and approvals process. The agreement requires that the board commit to adding an article on the Town Meeting warrant to modify the APR on parcel 3 to allow the restaurant as a use on the property.

Selectman Kost asked whether we are required to support the article at Town Meeting or just simply required to sponsor the article on the warrant. Town Counsel Greg Corbo (participating remotely) indicated that the board does not have an obligation to support the article.

Selectman Peraner-Sweet made a motion to approve and execute the agreement as presented with Ebi Masalehdan and not execute the town's right of first refusal, seconded by Selectman Hazelton, roll call vote (Peraner-Sweet – yes, Siriani–yes, Ross-yes, Kost-yes, Hazelton-yes)



Selectman Siriani made a motion to adjourn, seconded by Selectman Kost, all present voted via roll call in favor 5-0 (Peraner-Sweet-yes, Ross-yes, Kost-yes, Siriani-yes, Hazelton-yes). The Board voted at 7:33 p.m. to come out of executive session.

  
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Jodi Ross, Town Manager      date      2/23/16

  
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Kelly Ross, Chairman      date      2/23/16

Submitted by John Mangiaratti, Assistant Town Manager