

**Northern Middlesex Council of Governments**  
**40 Church Street, Suite 200**  
**Lowell, MA 01852**

**Minutes of Meeting: April 21, 2021**

The April 21, 2021 meeting of the Northern Middlesex Council of Governments was held virtually on the Zoom platform due to the COVID-19 pandemic. The meeting was called to order at 7:00 p.m. with Chair Andrew Deslaurier presiding. The following were in virtual attendance, as indicated in Attachment #1:

Councilors

- Andrew Deslaurier, Chair, Billerica Board of Selectmen
- Chris Tribou, Billerica Planning Board
- Mary McBride, Billerica Alternate
- Pat Wojtas, Chelmsford Select Board
- Paul McDougall, Chelmsford Planning Board
- George Zaharoolis, Chelmsford Alternate
- Philippe Thibault, Dracut Alternate
- Gerard Frechette, Lowell Planning Board
- Chuck Walkovich, Pepperell Planning Board
- Stephen Themelis, Pepperell Alternate
- Jayne Wellman, Tewksbury Board of Selectmen
- Anita Tonakarn-Nguyen, Westford Select Board
- Darrin Wizst, Westford Planning Board

Guests

- Chris Kluchman, Deputy Director, Community Services Division, Mass. DHCD
- Casey Campetti, Chair, Pepperell Planning Board
- Mark Mathews, Chair, Pepperell Economic Development Advisory Committee

Staff

- Beverly Woods, Executive Director
- Jay Donovan, Assistant Director
- Bert Almeida, Financial Officer
- Justin Howard, Transportation Program Manager
- Katrina Garavanian, Executive Assistant

**I. Presentation: The 2020 Economic Development Bill - Amendments to the Zoning Act and Voting Thresholds** – Chris Kluchman, Deputy Director, Community Services Division, Department of Housing and Community Development

The recent Economic Development Bill signed by Governor Baker included many changes to Chapter 40A, reducing the required supermajority vote required for zoning bylaws and amendments to a simple majority for certain zoning measures and actions. Chris Kluchman (DHCD) provided an overview of the Housing Choice legislation which was signed by the Governor in January 2021 and included reforms to Chapter 40A. Chris noted that the main goal of the legislation is to increase production of housing units in Massachusetts and thereby alleviate the housing crisis. In part, this is to be accomplished by allowing certain zoning actions by simple majority vote of the local legislative body, rather than requiring a supermajority. The bill also contains a provision for revenue sharing between two communities when there is a development located in one community that also impacts an adjoining community. In addition, it includes a bond provision for appeals and a requirement that all MBTA communities have an area zoned for multifamily housing by right.

Chris then reviewed the qualifying amendments by right which include multifamily development with 3 or more units, mixed use, accessory dwelling units, and open space residential development (OSRD). She outlined those that qualify but require a special permit including multifamily, mixed use and unattached accessory dwelling units, amendments that increase the number of units allowed, changes to dimensional requirements that allow for additional units, and reduced parking requirements for residential or mixed use projects. Adoption of 40R would require a simple majority, as would transfer of development rights.

The voting threshold for a special permit granting authority (SPGA) would be reduced to a simple majority where a special permit would reduce parking requirements to create additional units. In the case of a community that allows multifamily within ½ mile of transit or allows mixed use in a commercial center, a simple majority vote of the board is required for a multifamily or mixed use project that includes 10% affordability or more.

Chris Kluchman advised communities to be clear about the voting thresholds throughout the entire zoning amendment process. She added that the Attorney General's office will be reviewing zoning amendments under the new legislation, which will likely result in additional guidance for communities in the future.

The requirements for MBTA communities were then discussed. Chris stated that the legislation requires that all MBTA communities have one zoning district in place where multifamily development is allowed at a density of at least 15 units per acre. The housing cannot be age restricted and must be suitable for children. Communities that do not comply will no longer be eligible for MassWorks grants or Housing Choice capital grants. For this year, all communities

are considered compliant until guidelines are available. Draft guidance will likely be released over the summer months.

Chris explained the “eligible location” definition within 40R and noted that this new legislation does not apply the same factors as 40R. Given the uncertainty regarding this issue, the State has set up a process for communities to request an advisory opinion through the housing choice website. The request must be made by the community itself, not by an individual or developer.

Chris Kluchman then responded to questions that were submitted by the Council prior to the meeting. When asked whether MBTA communities without commuter rail service will be held to the same standards as those with service, Chris responded that she does not have an answer at this time. When asked how communities should proceed if they lack an eligible location due to infrastructure challenges, such a lack of sewer capacity, she explained how eligible location impacts voting requirements, and noted that most projects can proceed using on-site wastewater treatment facilities if sewer is not available. She added that the availability of public water and sewer will be a consideration for MBTA communities when the guidelines are developed.

Steve Themelis asked why the definition of multifamily housing is 3 or more units rather than 2 or more. Chris Kluchman responded that DHCD does not consider a duplex to be multifamily housing. Steve then asked whether there will be more funding available as a result of the bill. Chris Kluchman responded that there will be community planning grants in FY 2022 and there may be additional technical assistance for MBTA communities to address the requirement for multifamily zoning. The Economic Development Bond Bill also included capital funds for constructing housing; for example, there is \$50 million for transit oriented development housing and there are new funds for climate resilient housing.

Beverly Woods asked whether work on housing production plans will be funding through Planning Assistance grants, the DLTA program or both. She responded that the work would be accomplished through both programs.

Chris Tribou asked how MBTA communities should address the multifamily zoning requirement if the commuter rail station lies in a historic district. Chris Kluchman responded that the guidelines will provide some direction in that regard, noting that the location requirements have not been fully fleshed out yet. She added that the multifamily housing should be within ½ mile of fixed route transit, although the methodology for measuring that distance has not been determined. Additional direction will be provided to MBTA communities that do not have fixed route service.

Phil Thibault explained that Dracut will be overhauling its entire zoning bylaw over the next two years and asked how the new voting requirements might fit with that effort. Chris responded that new guidance was issued on April 9<sup>th</sup> stating that a 2/3 majority is required for a complete rewrite of a zoning bylaw. She noted that the Attorney General’s office has not yet weighed in on this issue, noting that Tewksbury may be the test case.

Jerry Frechette asked how the State administration will track which towns are implementing these measures and producing housing units. He added that the communities with higher density development have borne most of the responsibility for creating the majority of the housing units that one would consider to be affordable, while the wealthier suburbs have done less. Chris responded that the Housing Choice program is one tool for tracking this information and encouraging communities to do the right thing. She added that the data is showing that the state is on track to meet its 2025 goal. She further noted that the State will track the MBTA community piece of the legislation, given that there is a compliance piece tied to it. She then explained the challenges of using housing data can be inaccurate, noting that communities are responsible for reporting the data and some communities do a great job and others do not.

**I. Minutes of Meeting: March 17, 2021**

The minutes of the March 17, 2021 meeting were distributed to all Councilors for review. Based on a motion made by Steve Themelis and seconded by Jerry Frechette, the Council voted to approve the minutes of the March 17, 2021 meeting. Paul McDougall and Jayne Wellman abstained as they were not present for the March meeting.

**III. Executive Director's Report**

The Executive Director's Report was previously distributed to the Councilors for review. Upon a motion made by Phil Thibault and seconded by Chuck Walkovich, the Council voted unanimously to accept the Executive Director's Report as presented. The report is included as Attachment #2.

**IV. Financial Report and Warrant**

Bert Almeida presented the Financial Report and the Warrant for review and approval. Based on a motion made by Jerry Frechette and seconded by Mary McBride, the Financial Report and Warrant were unanimously approved. The Financial Report is included as Attachment #3. The warrant was sent by mail for signatures due to the COVID pandemic.

**V. Old Business**

**1. Draft FY 2022-2026 Transportation Improvement Program**

Justin Howard provided an overview of the proposed Draft FY 2022-2026 TIP that will be presented to the MPO at its April 28<sup>th</sup> meeting. An Executive Summary of the proposed document was included in the Council packet. Justin explained that the project listing in each fiscal year reflects actions that were taken at last month's MPO meeting relative to the four scenarios presented at the March Council meeting. The MPO voted to advance Scenario 4, involving the programming of improvements on Chelmsford Street (Route 110) in Chelmsford,

and intersection improvements at Boston Road (Route 3A), Lexington Street and Glad Valley Road in Billerica.

Based on a motion by Jerry Frechette and seconded by Phil Thibault, the Council voted to authorize the Chair to vote in favor of releasing the Draft FY 2022-2026 Transportation Improvement Program document for a twenty-one day public comment period at the April 28<sup>th</sup> MPO meeting.

## **2. Draft FY 2022 Unified Planning Work Program**

Justin Howard reminded the Council that, as discussed at the March Council meeting, the development of the FY 2022 UPWP is underway. A copy of the task listing and budget summary for the work plan was included in the meeting packet. Justin reviewed this information, stating that the tasks and budget information will be presented to the MPO at its April 28<sup>th</sup> meeting.

## **3. DLT A Request for Proposals (RFP) 2**

Jay Donovan reminded the Council that there is \$43,456 in uncommitted funds remaining in NMCOG's DLT A contract. A second solicitation for eligible projects will be sent out to communities by the end of the month. Jay provided an overview of the process and stated that an update would be available to share with the Council within a couple weeks following the solicitation based on responses.

## **4. Other Old Business**

There was none.

## **VI. New Business**

### **1. Community Reports**

There were none.

### **2. Project Referrals**

Beverly Woods informed the Council that currently there is one project under MEPA review within our region. An ENF for Heald Street Culvert Replacement / Sucker Brook Restoration in Pepperell has been filed. The proposed project includes the replacement of a deteriorating 36-inch diameter corrugated metal pipe culvert with a 16-foot-wide precast concrete open-bottom box culvert in accordance with MA Stream Crossing Standards. The construction will take place at the crossing of Heald Street over Sucker Brook. The project triggers MEPA review as it meets the threshold for the alteration of 1,000 or more square feet of outstanding resource waters.

Comments are due at MEPA on April 27<sup>th</sup>. A copy of the MEPA table was included in the meeting packet.

### **3. Local Rapid Recovery Planning Contract Award – Subject Matter Expert**

Beverly Woods told the Council that NMCOG was previously awarded a \$90,000 Local Rapid Recovery Planning contract by the Department of Housing and Community Development (DHCD) to prepare recovery plans for the communities of Dracut, Pepperell and Tyngsborough. NMCOG was recently notified of an additional \$27,000 award to serve as a subject matter expert under the LRRP program. She stated that the contract paperwork is expected within the next two weeks.

### **4. Report of the Personnel Committee – Staff Reviews**

Jerry Frechette informed the Council that the Personnel Committee met with Beverly Woods and Jay Donovan just prior to the Council meeting, as the two have recently completed performance reviews for the staff. The Committee discussed the review process and proposed adjustments for staff, which had been deferred from autumn 2020 due to the late development of the state budget which resulted in delays in state contracting, and due to budgetary unknowns tied to the potential impacts of COVID. The budgetary situation is quite healthy, as NMCOG has received \$117,000 in contracts that were not included within the FY2022 budget approved by the Council in February. The FY2022 budget did, however, include the cost of salary increases and was balanced even without these added revenues. The staff last received increases in October 2019.

The Personnel Committee presented their recommendations of a 3% increase to all staff with the exception of two, who were allotted a 5% increase based on a few factors, including exceptional effort and flexibility in supporting all staff through the work-from-home requirements incurred as a result of the pandemic. The Personnel Committee also recommended a 5% increase for the Executive Director and thanked her for exceptional leadership during this time as well.

Based on a motion by Steve Themelis and seconded by Chris Tribou, the Council voted to approve staff pay increases as presented by the Personnel Committee. Based on a motion by Anita Tonakarn-Nguyen and seconded by Jayne Wellman, the Council voted to approve pay increase for the Executive Director as recommended by the Personnel Committee.

### **5. Other New Business**

Beverly Woods informed the Council that she has been in touch with Congresswoman Trahan's office regarding a newly introduced infrastructure bill. She requested a letter of support from NMCOG for funding for four projects in the region including the VFW Highway improvements in Lowell, the Boston Road project in Westford, the purchase of hybrid electric buses and the installation of a new fueling station at the LRTA facility.

Based on a motion by Jerry Frechette and seconded by Mary McBride, the Council voted to authorize a Letter of Support to Congresswoman Trahan's office in support of these four projects.

**VII. Announcements**

There were none.

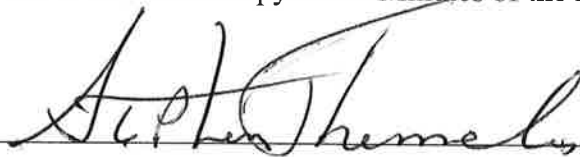
**VIII. Adjournment**

Following a motion made by Steve Themelis and seconded by Pat Wojtas, the Council voted unanimously to adjourn the meeting at 8:28 pm.

**CLERK'S CERTIFICATE**

I certify that this is a true copy of the Minutes of the meeting of April 21, 2021.

Attest:



A handwritten signature in cursive script, reading "Stephen Themelis", is written over a horizontal line.

Stephen Themelis, Clerk