

TOWN OF FRAMINGHAM
SELECTMEN'S RECORDS

REGULAR MEETING OF THE BOARD OF SELECTMEN MARCH 8, 1976

The regular meeting of the Board of Selectmen was held at 7:30 p.m. Present: Mr. John F. DelPrete, Chairman, Mr. Peter W. Ablondi, Clerk, and Mr. John F. King.

WARRANTS:

#104 - Mar. 8, 1976 - Bill - \$196,368.91
#105 - " - Pay Roll - \$1,548,549.32
#106 - " - Pay Roll - \$8,029.37

COMMON VICTUALER'S LICENSE - Interstate United Corp.-Snack Bar, at O'Connor Hall, State College, 100 State St.

SPECIAL MALT BEVERAGE AND WINE LICENSEES:

Larned Hall House Council, at Larned Hall Rec. Rm., State College, March 11, 8 p.m. to 12 p.m.
Class of '77 State Teachers College, at O'Connor Lounge, State Teachers College, March 12, 8 p.m. to 12 p.m.
Class of '79 State Teachers College, at O'Connor Lounge, State College, March 17, 7 p.m. to 10 p.m.
26th S & T Batallion MARNG, at National Guard Armory, 522 Concord St., March 13, 6 p.m. to 1 a.m. (Fee waived).

BUILDING REMOVAL PERMIT:

Howard M. Blades, from 270 West Central St., Natick, to 47 Pinewood Drive, Framingham, on March 9-12.

PETITION:

The petition of the New Eng. Tel. & Tel. Co. JO Boston EdisonCo. for the relocation of one JO pole, (one JO pole to be removed) on Belknap Rd., northwesterly side, approx. 149' northeast of Grove St., was granted.

APPLICATION FOR CERTIFICATE OF INCORPORATION:

The application of "Bay State Dance & Gymnastics Association, Inc.", 44 Normandy Dr., Sudbury, for change of location, as amended to 9 Tripp St., Bldg. 21, South Framingham, was approved, and the Secretary of State so notified.

APPOINTMENT:

The following was appointed a special police officer for a term to expire with the termination of his employment with Town of Framingham as Custodian in the Memorial Building: Charles C. Mespelli, 96 School St.

VARIANCE:

It was voted to authorize the Building Commissioner to issue a permit to Donato Guadagnoli for the construction of a tool shed at 4 Seminole Ave., with a 2' side and rear yard.

HEARING - TRANSFER OF LIQUOR LICENSE (PARK HAVEN LOUNGE):

A public hearing was held in Room 21, Selectmen's Office, Memorial Building at 7:30 P.M. on the application of Park Central Hotel, Inc. d/b/a Park Haven Lounge, holder of an All Alcoholic Beverage license as a Common Victualer, at 2-4 Franklin St., for the transfer of ownership of the license to Park Haven Hotel, Inc. d/b/a The Greco Lounge, at the same location, no change in premises. Park Central Hotel, Inc. assented to and joined in the application for transfer. Affidavit of service to abutters was presented to the Board. Attorney Victor Galvani, representing the principals, Rosemary Pickett, John A. Greco, Sr. and John A. Greco, Jr. told the Board that the license was previously owned by Caesar Tamagno, now deceased, and that John Greco, Jr. has been involved with the operation for a number of years. On the motion of John King, it was unanimously voted to grant the transfer of ownership of the license to Park Haven Hotel, Inc. d/b/a The Greco Lounge, pending approval of the Alcoholic Beverages Control Commission. (No opposition was presented).

ZONING VARIANCE - 155 Leland Street:

Mr. and Mrs. Tamuleviz, abutting property owners at 155 Leland Street, appealed to the Board for assistance in enforcing compliance with requirements imposed by the Zoning Board of Appeals in a variance granted to Mr. I. Trombi, 155 Leland Street, in August of 1973. Mr. & Mrs. Tamuleviz had appeared last week also on the same matter, and had pointed out that the conditions have existed since 1973 and no attempt has been made by Mr. Trombi to comply. It was brought out last week that Mr. Trombi has appeared before the Zoning Board of Appeals recently seeking modifications of the restrictions, however, no decision has been filed as yet by the Z.B.A. Mr. Seeley, Building Official, had noted last week also that he was unable to make a determination on what to enforce because he was unclear about imposed restrictions. Mr. Tamuleviz said he was not concerned with the modifications presently being sought, however, was very much concerned with the length of time which has elapsed to correct the entrances and exit. George Seeley pointed out there was no mention made of entrances and exits in the original Z.B.A. decision. Following discussion, George Seeley was directed to enforce the restrictions imposed in the original Z.B.A. decision. In the interim, clarification will be sought from the Z.B.A. as to their interpretation and direction with regard to the modifications requested recently.

CIVIL LIBERTIES UNION SUIT VS. SCHOOL COMMITTEE:

Winston Anderson, Chairman of the School Committee, briefly discussed with the Board the status of the litigation in which the School Committee is involved with Gaines et al. Mr. Anderson told the Board that an April 19th date for hearing before a 3 Judge panel in U. S. District Court has been set and the School Committee must file a summary of their side of the case by Friday. On the motion of John King, it was unanimously voted to meet jointly with the School Committee at their meeting to be held the next evening at Lincoln School to discuss further defense and its costs.

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SPECIAL PERMIT - IRVING HOLLIS REALTY TRUST (TABLED ITEM):

On the motion of John King, it was unanimously voted to remove from the table the matter of the Special Permit request from Irving Hollis Realty Trust. Present were Attorney Victor Galvani, representing Irving Hollis Realty Trust, Attorney Michael Sheridan, representing three business men on Irving Street opposed to the granting of the Special Permit, Building Official George Seeley, Safety Officer Sgt. Robert Foley, and representatives of those businesses who were opposed. As requested by the Board, Town Counsel submitted an opinion that no Special Parking Permit was required in connection with the transfer of the Division of Employment Security to this location because it was a state agency. He also cited specific cases to give the basis for his opinion (See Town Counsel's memo to the Board of Selectmen dated March 3, 1976). In addition, also requested by the Board, a report was received from Sergeant Foley dated March 1, 1976 with recommendations to control the traffic and parking in the area which will be generated by the addition of the Division of Employment Security. Attorney Sheridan took the position that not only was the DES subject to the off street parking provisions of the Zoning By-Laws, they have also failed to meet the requirements for the permit it seeks from the Board. He also pointed out that where the applicant has submitted his request to the Board of Selectmen and has asked the Board to rule on it, he has waived any other arguments he might have. He reinforced his previous position with regard to the adverse impact on the businesses and residents in that area as a result of the increased traffic and lack of parking and urged the Board to consider this factor carefully. Discussion followed. Chairman DelPrete said with the enforcement the Police have promised he was in favor of the move because he did not want to lose this agency in the Town since it served many residents, and would more than likely increase business on the south side. Peter Ablondi pointed out he has attempted in the last 8 years to promote business on the south side, however, his first obligation was to the existing businesses. He reiterated his stand of last week that before he would vote in favor of the move, he wanted assurance that the employees of DES would not park their cars on a public way - or infringe on private ways. A recommendation submitted by Sergeant Foley to purchase land in back of South St. and remove substandard housing for parking purposes provoked several questions because of the cost to the taxpayers. Richard Schiff of Framingham Motor Parts asked why they should pay more taxes to make access for this absentee landlord. Responding to another recommendation of Sgt. Foley to use the Hollis St. Parking Lot, Peter Ablondi said it was his understanding that the Capital Budget Committee won't recommend purchasing it. Following lengthy discussion, Attorney Galvani reminded the Board that Town Counsel had ruled that it is not in the Board's province and, therefore, the Building Official has no cause not to issue the permit. Town Counsel clarified, following a review of his opinion, although he has cited instances supporting his opinion, it has not actually been decided by the Supreme Court. John King motioned to accept the opinion of Town Counsel that the intended use by the Commonwealth is exempt from the zoning by-law requirements. John DelPrete seconded and it was voted two to one. Peter Ablondi voted in opposition.

Following the vote, lengthy discussion followed with regard to enforcement of parking violations and traffic control, as well as parking facilities. Attorney Galvani explained that he has studied possible parking facilities and indicated there was a possibility that the Portuguese Recreation Club parking lot could be leased by the DES. Richard Wells of Wells Generator complained strongly that his business would be adversely affected by the move and would probably cause him to move from the area. William Reed insisted that transients would fill their lots. He noted that the existing businesses had provided their own parking, at their expense, and it was unfair to allow the DES to move without any parking provisions. A question was raised with regard to a recommendation of Sergeant Foley to increase police coverage in the area as to whether this would require additional persons in the Police Department at the rate of approximately \$15,000 per year. Mr. Beckett said the lessee should be obligated to pay for additional police enforcement in the area - not the town. Lou Guerrieri of Gordon Street suggested making Gordon Street two ways to alleviate a portion of the problems. Objection to "the permit" granted by the Board caused John King to clarify that the Board did not issue a permit to the Irving Hollis Realty Trust, but only voted to uphold the opinion of Town Counsel. He reiterated that Town Counsel had given an opinion indicating no special permit was necessary and the Board would be within its rights to accept this opinion and decline jurisdiction. He said he accepted the opinion of Town Counsel knowing there were going to be problems, however, they were responsible for following the law. He assured those present that the Board would work very closely with the Police Department in making the transition as easy as possible.

Following lengthy discussion on the anticipated problems, John King said, "after carefully considering the consequences, it might be better to issue a permit in this particular case so that the necessary restrictions can be included." (Without a permit, restrictions could not be imposed). Town Counsel reminded the Board that a unanimous vote would be required if a permit is granted.

John King withdrew his motion to accept the opinion of Town Counsel. John DelPrete seconded. John King then motioned to table the matter until the necessary restrictions are established to protect the area businesses and residents. Said restrictions to be drawn up by Town Counsel, the Building Official, Police Chief and Planning Director. Unanimously voted.

CONFERENCE - KNIGHTS OF PYTHIAS CARNIVAL:

Representatives of the Knights of Pythias conferred with the Board in connection with their request for a permit to operate a carnival at the Caldor Parking lot. As a result of objections to the use of the location from a safety stand point, as well as objections raised by several abutters, the group had been advised earlier to seek another location. Prior to discussion, letters received from the Planning Board (noting any off street parking lot used for other than the approved use would be in violation of the off street parking by-law,) and from the Safety Officer (recommending against the location because of the safety factor,) were read. Discussion followed with regard to alternate locations. Mr. Marvin Miller told the Board they had investigated other locations suggested by the Board but had been unsuccessful. With the assurance from the Knights of Pythias that they would comply with any restrictions imposed, it was voted two to one to grant them a permit to operate a carnival at the Caldor Parking Lot. John DelPrete voted in opposition.

SIGN REVIEW BOARD - APPOINTMENTS:

Receipt was noted of a letter from the Building Official suggesting that a 5 man Sign Review Board be appointed as quickly as possible because of the unusually restrictive nature of the new Framingham Sign By-Law. It was voted to table the matter for two weeks pending recommendations from the talent bank for candidates, and approval of the By-Law by the Attorney General. In the meantime, Peter Ablondi suggested media publicity as a source for alerting interested persons.

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CONFERENCE - PERSONNEL BOARD RECOMMENDATIONS:

Personnel Board Members Liz Harney and Alan Kaplan, Planning Director Christy Maltas and Building Official George Seeley met with the Board to discuss the positions of Planning Analyst and Local Inspector, and to ask the Board to support the Personnel Board's recommendations to make permanent the position of Planning Analyst (S-12/1) and to create the position of Local Inspector for FY'77. In reinforcing their position, Personnel Board Chairman Liz Harney pointed out it was unfair to ask the Planning Analyst to continue in a temporary status after two and one half years of employment without fringe benefits and normal pay increases other town employees are entitled to. She pointed out that on March 13, 1974 and again in 1975 the Board of Selectmen unanimously voted to support making this position permanent and she urged the Board to continue their support. She suggested if the Board chose not to support this position, then they should seriously decide, in fact, whether or not they wanted a Planning Department.

To reinforce Ms. Harney's remarks, Christy Maltas reviewed the establishment of the Planning Department since its inception. He pointed out to the Board that they had made a commitment to HUD before he even came on the job and in 1974 when he was applying for more federal funds he was told by HUD that unless the Town establishes a Planning Analyst there would be no further grants. He pointed to several other instances when the Board of Selectmen agreed to support the position; specifically, when he discussed the staffing needs of the Planning Department with the Board. He reviewed in detail the development of the Planning Department, their performance and achievements, and their results (monies received in grants, assistance to other departments, topics program, etc.). He told the Board that unless they support the position, it was unlikely that Town Meeting would support it. In conclusion, he commented that his department could be abolished any time they wished and they should make a decision as to whether or not they wanted a Planning Department. Mr. Ablondi said he would support the position because he was satisfied that the Town of Framingham needed a Planning Department and they presently had an excellent one. Mr. King agreed the Planning Department was excellent, however, he felt the request should be taken under advisement for a decision at a later date. Mr. Ablondi insisted that either they support the request or tell town meeting they don't want a Planning Department. He said he saw no purpose in tabling the matter. Mr. DelPrete indicated he would be willing to table the issue for the time being. Later in the evening, however, following an additional plea from C. Maltas, he agreed to support the position.

Building Department - Ms. Harney again clarified the Personnel Board's position with regard to the addition of a local inspector's position in the Building Department. She explained there were many more inspections required of the Building Department as a result of the town imposed BOCA Code. She pointed out also that the position has been requested for three years in a row and last year the Board of Selectmen approved it, however, at that time the Personnel Board asked Mr. Seeley to utilize Ceta personnel instead. She commented because they are 1 1/2 years behind in their inspections, it was incumbent upon them to ask for one more local inspector to be added to the pay plan. George Seeley expanded on Ms. Harney's remarks. He emphasized they did not have the staff to adequately inspect and he presented a summary of man hour inspections for the Board's review. John DelPrete was very critical of state imposed regulations which require towns to absorb more work, without funding. He said he was extremely concerned with the cost to the taxpayer. Alan Kaplan of the Personnel Board explained to the Board that they had received a number of requests for new positions and reclassifications and after carefully reviewing each of the requests, considering the cost analysis, they filtered out those they did not feel were necessary and agreed that these two positions, plus changing the dog officer's position to civilian, were justified.

Following additional discussion, John King agreed the two requests were in order, however, because of the present adverse economic conditions he said he did not feel this was the year to add additional personnel. He said he was extremely concerned with the cost to the taxpayers and for that reason he would not support any new positions. Peter Ablondi motioned to support making permanent the position of Planning Analyst and to create the position of Local Inspector for FY'77. John DelPrete seconded and it was voted two to one. John King voted in opposition.

Prior to concluding the conference, Ms. Harney asked the Board to approve a list of job descriptions which had been presented to them. John King said it was the first time he had seen them and would like to review them prior to making a decision. He requested confirmation, and received it, that all job descriptions presented to them were covered under the by-law.

ROUTE 9 DRAIN STUDY:

Receipt was noted of a letter from Fred Sergeant, Town Engineer, regarding the status of the drainage study by the State Department of Public Works along Route 9.

UNDERGROUND STREET LIGHTING:

Responding to the Board of Selectmen's request to reconsider their regulations requiring underground street lighting, the Planning Board, in a letter dated March 4, 1976, advised the Board they had unanimously voted to keep their rules and regulations requiring such service and cited the reasons for same. Selectman Ablondi protested the aesthetic improvement because it was unfair to ask the light users to pay an additional amount in his monthly bill because of certain citizens in Framingham that have underground wiring. John King motioned to request the Department of Public Utilities to hold a public hearing in the town for the purpose of hearing the town's position on the cost of underground wiring vs. overhead lighting, and with the intention of modifying the rates. Peter Ablondi seconded the motion and it was unanimously voted.

RESIGNATION - YOUTH COMMISSION:

The resignation of James Sweeney as a member of the Youth Commission was accepted with regret and the Board's appreciation will be extended to him. In connection with same, a letter was received from the Youth Commission with a recommendation for filling the vacancy. On the motion of Peter Ablondi, it was unanimously voted to appoint John LaChance to replace James Sweeney. A question with regard to terms of office for Youth Commission Members was raised by Mr. Ablondi. He asked the Town Counsel to look into the feasibility of staggering the terms of office to provide continuity of membership. The term of office for Mr. LaChance was tabled pending Town Counsel's investigation.

CIVIL SERVICE STUDY COMMITTEE:

It was unanimously voted to appoint Patrolman Dennis Hayes to serve as a member of the Civil Service Study Comm.

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TOWN REPORT & TOWN MEETING JOURNAL:

On the recommendation of the Executive Secretary, and following a confirmation that the public bidding laws were complied with, it was unanimously voted to accept the low bid for printing the town report and town meeting journal. The Executive Secretary was directed to work in conjunction with the Purchasing Agent in finalizing details.

SPECIAL ATTORNEY - SCHOOL COMMITTEE:

A bill in the amount of \$750.00 from Attorney Alfred J. Mainini, Special Attorney to the School Committee, was submitted to the Board for payment together with the School Committee's vote to accept the bill. The matter was referred to Town Counsel who was directed to obtain a breakdown of the bill.

FRAMINGHAM HOUSING - SECTION 8:

John King directed the Executive Secretary to work in conjunction with the Executive Director of the Housing Authority to establish an advertising schedule alerting the citizens in the town of the availability of Housing Assistance Payments Program for the Town, and if necessary to seek funds from the Finance Committee for this purpose. He was advised that the Framingham Housing Authority has already initiated such a program.

TOWN LITIGATION:

Town Counsel informed the Board he would represent the Town in the suit against the School Committee regarding violations of the Open Meeting Law in the deliberations of the Committee leading to the selection of the Deputy Superintendent of Schools, and in the suit involving the complaint filed by 16 police officers for money claimed due them as a result of being assigned to a police training school, pursuant to G.L.c 41, section 96B.

EXECUTIVE ADMINISTRATOR APPOINTMENT (TABLED ITEM):

John King opened discussion on the appointment of the Executive Administrator. He remarked that although he had deferred making the Executive Administrator appointment last week until this week, he felt compelled not to make any appointments at this time because of alleged payroll abuses that had come to his attention this past week. He said he questioned the procedures being followed since learning that town employees are allowed to take time off from their regular town duties to work for other town agencies, or at the polls. John King pointed out that he had asked Mr. Clarke on February 17th and February 23rd to check payrolls carefully for violations and to develop a procedure to eliminate any abuses. (He read the minutes of Feb. 17th and 23rd). He said he also remembered making a similar request on at least two other occasions - and the information hasn't been provided yet. He noted the Board delegates the authority to investigate other departments and it is incumbent upon them to have someone in this position who will do so. He expressed concern that the necessary safeguards are not being built into the town's payroll procedures to avoid violations and said until there are definite answers as to whether there are any payroll abuses, and until the necessary safeguards are established, he was in no position to make any appointments of any department heads.

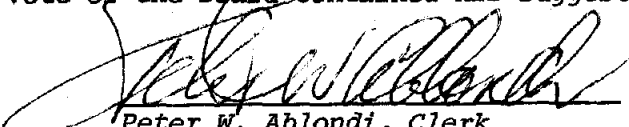
Mr. Clarke, Executive Secretary, explained that he had investigated the four employees who had been brought to his attention and found that one had used a vacation day to work at the polls; one was an employee of the school department who had a day off without pay; one was a part time employee who had the day off without pay and the other was a crossing guard who worked at the polls during off hours of assigned duty. He explained he has been working with the Personnel Director and Town Treasurer to obtain a more detailed breakdown on their work assignments. Mr. Clarke also pointed out that he was working on an expansion of the computer system which would allow closer checks on the accuracy of the payroll warrants.

Chairman DelPrete said it was unfair to continue to defer this appointment. He said "We have reached a point where we keep on continuing this and it is like a soap opera. We granted an extension for one week and now there is another request for an extension." He pointed out regardless of whether the appointment is made now or not, the information requested will be obtained. Peter Ablondi reminded Mr. King that he only agreed to defer the appointment last week because it was stated positively by Mr. King that an appointment would be made this week. He cited Mr. Clarke's accomplishments and said he was prepared to give him the "clout" he needed to go into every department. He nominated Matthew P. Clarke as Executive Administrator. Mr. King reiterated there were town employees who took time off from their regular work to work in another town agency. He commented "If we need them let them be here. If not let them go." He said when he comes to a Selectmen's meeting and he requests certain information and it isn't provided, then he is very concerned. He emphasized he would not go along with these abuses and until they are stopped, he would not be a part of it. He concluded "if Framingham town employees can pick and choose between jobs - maybe we have too much help." Mr. Ablondi said it was manifestly unfair to place the fault with Mr. Clarke since it was not his fault that these abuses exist. He motioned to appoint Matthew P. Clarke for a three year term in order to give him the clout to investigate these town departments. John King motioned to table the entire matter until such time as the requested information is provided. He pointed out there was nothing in the contract that allows the town employees to take time off from their regular jobs to work for another town agency. He stressed that these abuses have to be brought to the forefront. Chesley Oriel, candidate for Selectman, asked why the Board didn't conduct its own investigation and have an open hearing on these abuses so the public would see how the investigation is going. John DelPrete explained the investigation is discussed at a Selectmen's meeting and that is open to the public. If, after the investigation is under way, it is determined that an additional public hearing is required, one will be scheduled. Chairman DelPrete then seconded Mr. Ablondi's motion and it was voted two to one to appoint Matthew P. Clarke as Executive Administrator for a term of three years, effective March 19, 1976. John King voted in opposition. He expressed his disappointment in the Executive Secretary and the Personnel Director that no positive action was taken to eliminate these abuses.

OVERNIGHT PARKING:

As a result of a recent telephone call, Peter Ablondi requested confirmation that a recent vote taken by the Board did not alter the present overnight parking regulation. He pointed out that the traffic regulation presently in force which prohibits all night parking is still needed and should be studied for further revision to strengthen the present one. He was advised that the vote of the Board contained his suggestion.

MEETING ADJOURNED AT 11:35 P.M.


Peter W. Ablondi, Clerk