

TOWN OF FRAMINGHAM
SELECTMEN'S RECORDS

REGULAR MEETING OF THE BOARD OF SELECTMEN MARCH 15, 1976

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

WARRANTS:

#107 - March 15, 1976 - Bill - \$184,946.38
#108 - " - Pay Roll - \$487,680.47

SPECIAL MALT BEVERAGE AND WINE LICENSES:

St. Jeremiah's Parish - at St. Jeremiah's Parish Hall & Grounds, June 5, 10 a.m. to 10 p.m.
Kappa Delta Phi Sorority State Teachers College - O'Connor Lounge, State College, March 12, 8 p.m. to 12 p.m.

APPOINTMENTS:

The following were appointed special police officers:

Ronald Cummins, 45B Second St., term of 1 year.

George Madden, term to expire with termination of employment as Assistant Deputy Superintendent Mass. Correctional Institution, Box 99, Framingham.

PROCLAMATION - YOUTH HOCKEY:

The Board of Selectmen proclaimed the week of March 24 through March 28, 1976 as Youth Hockey Week.

HEARING - LIQUOR TRANSFER (D. GARBARINO CO., INC.):

A public hearing was held in the Selectmen's Office, Room 21, Memorial Building at 7:30 P.M. on the application of D. Garbarino Company, Inc., holder of an All Alcoholic Beverage License as a Retailer at 428 Waverly St., for the transfer of its license to 438 Waverly St., two entrances front and rear, two rooms on first floor, cellar for stock. The petitioner and his counsel, Attorney James Sweeney were present. There was no opposition. On the motion of John King it was voted to grant the transfer pending approval from the Alcoholic Beverages Control Commission. Chairman DelPrete abstained from voting.

AGREEMENT - LOCAL #1652-INTERNATIONAL ASSOCIATION OF FIREFIGHTERS:

VOTED: "That the attached form of agreement, for Fiscal Year 1976, presented to the Board of Selectmen, between the Town of Framingham and the Framingham Fire Fighters, Local #1652-International Association of Fire Fighters, duly recognized collective bargaining representatives for the unit described in said agreement, be and hereby is accepted on behalf of the Town of Framingham and that the Chairman and the Clerk of the Board are hereby authorized to execute and deliver the said agreement for and on behalf of the Town."

CONFERENCE - HOLLIS AND SHAUGHNESSY PARKING LOTS:

At the request of the Chairman of the Finance Committee, members of the Capital Budget Committee, Finance Committee and Real Property Committee met with the Board to discuss recommendations to Town Meeting regarding the acquisition of the Hollis and Shaughnessy Parking Lots, currently leased by the Town. Jay Gordon, Chairman of the Finance Committee explained to the Board that he had requested the meeting because the Capital Budget Committee had voted against acquisition because they had not been made aware of all the facts and he felt clarification was necessary. He explained further that the Real Property Committee had recommended on January 8, 1976 to purchase the property and to obtain an opinion of value, and although the Finance Committee had not voted officially as yet, some of the members expressed support for acquisition. Following a brief discussion, it was agreed on the suggestion of Dr. O'Shaughnessy that in the future any boards or committees that make reference to any capital expenditures should be obligated to contact the Capital Budget Committee. Pertinent facts discussed regarding rental fees, description of parcels, summary of terms of lease and appraisal figures are as follows:

Shaughnessy Prking Lot - Town Counsel reported there was 22,924 square feet involved; cost to town-\$6600 per year plus excess on taxes levied over \$1100 per year; the lease, which is due to expire in June of 1976, was for five years. Mr. Bikofsky also reported the appraiser for the owner evaluated the property at \$6.50 per sq. ft. for \$150,000 where the town appraiser evaluated it at \$3.50 per sq. ft. for \$80,234.

Framingham Associates (Hollis St.) - Town Counsel reported there was 21,550 square feet involved; cost to town-taxes only are paid for lease (\$674.00); the lease which was for five years has already expired. The lot has been appraised at \$26,000 by the town only. John King suggested perhaps 709 funds could be used to purchase this property, or Community Development funds, if it was determined to be in the Project Area.

Dr. O'Shaughnessy of the Capital Budget Committee questioned whether the town would be at the mercy of bidding with anyone in the private sector. Chairman DelPrete said the town would try to negotiate a purchase, or acquire these properties through eminent domain.

Following additional discussion, on the motion of Peter Ablondi, it was unanimously voted to instruct Town Counsel to proceed with the necessary steps to seek title to the Shaughnessy Parking Lot. It was further voted unanimously, on the motion of Peter Ablondi, to instruct Town Counsel to commence negotiations with the owner of the Hollis St. Parking lot.

APPRAISALS-LAND TAKINGS (TOWN MEETING):

In accordance with a request from the Department of Public Works, it was unanimously voted to authorize the Town Counsel to obtain appraisals of land described in Articles 62,63 and 64 of the 1976 Annual Town Meeting Warrant which pertain to land-takings in conjunction with the proposed replacement of the Main St. and Danforth St. bridges over the Sudbury River.

TOMMY'S TAXI STAND:

Receipt was noted of a letter from Robert Paul of Bob Paul's Bakery advising they had no objection to Tommy's Taxi using two parking spaces in front of their store.

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CONFERENCE - STREET ACCEPTANCE (TABLED ITEM):

Following a joint meeting with involved persons and a subsequent field inspection of the Framingham Industrial Park, the Board met with Attorney John Garrahan and his client Bart Perini of Paramount Development Associates; their engineer, Joe Sullivan; Planning Board Member George Harrington and Town Engineer Fred Sergeant to discuss the status of work yet to be completed before unanimous approval could be given for the acceptance of the streets in the Framingham Industrial Park. Attorney John Garrahan referred to the following 8 items requiring completion prior to approval which were listed in a memo dated March 9, 1976, signed by Town Engineer Fred Sergeant, Director of Public Works Primo Silva and Planning Board Consultant William Domey.

1. Installation of Railroad Signals - Attorney Garrahan told the Board they had received a communication from the Railroad advising they are now in the process of completing their estimates of costs and specifications and as soon as the estimates have been obtained, Paramount Development would make arrangements to pay them for the installation of the lights. (The Railroad will not allow anyone else to install flashing lights). He told the Board that he also spoke with representatives of the Department of Public Utilities and they are asserting pressure to force the Railroad to get to this as quickly as possible. Mr. Garrahan made the commitment that Paramount Development would put the required funding for installation in escrow as soon as the amount required was known. John King questioned the responsibility for maintenance once the lights are installed. No answer was immediately available but will be investigated. Annual maintenance cost for the lights was determined by the Town Engineer to be approximately \$900. John King directed the Town Engineer to clarify what the annual cost would be and whether the cost would be borne by the Town or the Railroad. Peter Ablondi cited the fact that any grade crossing in Town was essentially the same as the grade crossing in this development, and in utilizing the crossing the public was going from one public way to another across a private way (Railroad Right of Way). He stated he did not feel this particular railroad crossing should be different from all others in the Town and should not be a technicality in delaying the orderly procedure in acceptance of these streets.
2. Action requiring headwall installation at the drain outlet near Lot 41 will be completed before Town Meeting.
3. Sewer and drain plans are being completed and will be in the Town Engineer's Office shortly.
4. Plans have been prepared showing the easement areas, and the descriptions are being updated and will include the water line placed in 1959.
5. There is some hot top patch needed to correct the drainage problem on New York Avenue and that is in the process of being installed.
6. & 7. Retention area for Silt Control and question of responsibility by the Town in the future will be covered by the Town Counsel in a legal document some time before the final recommendation to Town Meeting.
8. Temporary driveway from the Shertan Tara Office Building - Mr. Garrahan pointed out this was built by Flatley at the request of the 2000 employees at the Industrial Park to assure safe access and egress. He told the Board the site distance will also be improved and a permanent driveway is being considered.

Following the above response, Mr. Garrahan asked the Board to recommend the acceptance of these streets subject to obtaining the necessary legal assurances called for and subject to submission of the final drafts of easements.

John King asked for a report on his request for a determination on how other communities handled Industrial Parks. Town Engineer told him out of 13 towns canvassed, he found six, which had Industrial Parks, did accept the streets within. Peter Ablondi motioned to give conditional approval. John King suggested treating these streets the same as all others and waiting until positive recommendations are received from involved departments. John Garrahan explained that all boards recommend two streets in the park. He said it was his understanding that once Town Counsel can prepare the necessary easements that are called for, and provide the necessary protection that is referred to in the March 9th memo, any other objections will be removed. Town Engineer said his recommendation would be to accept Pennsylvania Avenue; New York Ave - if the two items required are completed before Town Meeting; California Ave. - when signals are installed; and The Mountain Road - when the silting ponds are cleaned. George Harrington agreed with Town Engineer. He indicated no recommendation for acceptance should be given until all work is done. John DelPrete said he would be willing to give conditional approval with the assurance that all items will be completed before town meeting, and if not completed, he would withdraw recommendation. George Harrington reiterated he would prefer to see the work completed and inspected before conditional approval is given. He added they would consider conditional approval if the Planning Board did receive a commitment letter. John King motioned to table the matter until positive recommendations are obtained by involved departments. In order to expedite the matter, and to allow Town Engineer the time to prepare the necessary documents prior to Town Meeting, Peter Ablondi motioned to give conditional approval consistent with the items listed in the March 9th joint report. John King explained his motion to table was in no way indicating it would not be presented to Town Meeting. He said he simply wanted compliance of the Board's procedural policy and he was hoping to obtain concurrence by next week. He pointed out if the recommendations are obtained and one is not favorable, then at that time they could take the action the Board deems necessary. He suggested Mr. Garrahan meet with the Planning Board in the interim to give them the assurances they require. He reiterated he was not opposed to the article going to Town Meeting - he just wanted to follow procedures. John DelPrete seconded Mr. Ablondi's motion and it was voted two to one to recommend the acceptance of these streets - with conditions. John King voted in opposition.

FEMIA DRIVE: - It was voted to leave this on the table for one more week to allow Mr. Ablondi an opportunity to review the area.

DOG OFFICER'S POSITION:

Applications and resumes received from applicants for the position of dog officer were submitted to the Board for review. John King directed the Executive Secretary, jointly with the Personnel Director, to narrow the field to three candidates - and to include any other candidate of the Selectmen's choosing following review of the entire list. Selectmen DelPrete and Ablondi agreed with Mr. King's policy.

LEGAL SERVICES - SPECIAL COUNSEL (MAININI, ESQ.):

Following an examination of the bill submitted by Attorney Alfred J. Mainini, Special Attorney to the School Committee, and in accordance with Town Counsel's recommendation, it was unanimously voted to approve payment of \$750. to Attorney Mainini.

COMMUNITY DEVELOPMENT GRANTS:

Receipt was noted of a memo from James E. Finigan, Program Manager of the Office of Community Development concerning eligibility for grants.

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IRVING HOLLIS REALTY TRUST (TABLED ITEM):

As requested by the Board, Town Counsel submitted recommendations and restrictions to be incorporated in the event a special parking permit is granted to Irving Hollis Realty. The conditions were established jointly by the Safety Officer, Building Official, Planning Director and Town Counsel. Attorney Galvani, representing Irving Hollis Realty, told the Board he found the conditions acceptable, and would be enforced where possible. Attorney Michael Sheridan, representing three business men in the area in opposition to the move of the Division of Employment Security to Irving Street, repeated his concern that the additional traffic generated would have an extremely adverse impact in the area. He referred to recommendations submitted by Safety Officer Foley under date of January 19, 1976 which supported this fact. He also referred to recommendations submitted by Safety Officer Foley under date of March 1, 1976, and noted a conflict with his initial recommendations. With regard to the proposed conditions, Attorney Sheridan pointed out some would be extremely difficult to enforce. In his arguments against allowing the move, Attorney Sheridan indicated if the Town made accessible two municipal parking lots they would be subsidizing parking for the DES. John DelPrete pointed out the Town has been attempting to acquire these lots of land long before this issue and this, in no way, implied the Town was subsidizing parking for this facility. He said his main objective was in keeping the DES in Framingham. Peter Ablondi, responding to the condition to direct employees or clients to park in one of the two municipal parking lots accessible from Hollis Court, commented that these lots are not presently owned by the Town. He explained while there is a proposal for purchase of these lots, there was a reluctance on the part of the Capital Budget Committee to endorse such a proposal. He also indicated Town Meeting would not be willing to spend \$26,000 to acquire the land. He said although he would like to support the move, he could not in good conscience add to an already bad situation.

Several business owners in the area also repeated their concern about encroachment on their private parking facilities. They cited already congested traffic conditions. Stuart Arvedon of Framingham Electric Supply told the Board trucks would not be able to get by. He noted a recent instance where a fire truck was not able to get by without going onto the sidewalk. He cautioned the Board that in addition to the congestion in the area, there was not adequate parking to service some 12,000 clients of the DES. He said he was not opposed to DES coming into the area if parking could be provided and he suggested finding some way of acquiring and demolishing sub-standard houses in the South Street area for this purpose.

Following a fairly lengthy discussion, Attorney Galvani told the Board they were deviating from the issue. He said he has pointed out conclusively on several occasions that a special permit was not needed because (1) it was a state agency - and this point was verified by Town Counsel; (2) there is no substantial alteration of a building or structure (he pointed to the zoning regulations) and (3) off street parking regulations only requires one space for every 150' (he noted these spaces are available). He told the Board they were applying a yardstick in this instance which is not applied to anyone else - and reiterated these spaces do exist and this has not been challenged before. In conclusion, he pointed out if the Board did not accept the opinion of their own Town Counsel, they would be placed in the position of hiring outside counsel to dispute their own Town Counsel's opinion in the event of litigation.

Chesley Oriel told the Board that he had met with Joseph McDermott of DES and he assured him that they would not move out of Framingham. He said he also spoke with Mr. Crosier, Director of DES, who said they would prefer to have their office in Framingham and if they were unable to obtain the Irving St. location, they would rebid - probably for another Framingham location. Mr. Oriel said he had also had conversation with Mr. James Bell of the U. S. Department of Labor regarding a location for the DES. Mr. Oriel suggested the Board should meet with representatives of the DES and Department of Labor to discuss the related problems, and to see if some solution could be reached. He noted their willingness to meet with the Board. Mr. Reed of H. L. Reed & Son, supported Mr. Oriel's suggestion to meet with DES representatives so they could be made aware of the problems.

John Fiore, who is the current landlord of DES on Howard Street, and who is also opposed to the Irving St. location, pointed out to the Board that it would not be necessary for DES to move out of Framingham because bids could be re-submitted and there were other locations in Framingham that would adequately fill the requirements. Mr. Oriel referred to three other bids which had been submitted to support the position that DES would stay in Framingham, and he indicated if a reasonable bid was submitted they would still locate in the Town. John DelPrete said they had no assurance the office would stay in Framingham if they were not allowed this location. He commented that he has said all along he did not want to get in the middle of the bidding process. He reiterated his only concern was to keep the service in the Town.

Selectman King said it was the first time he has seen a business penalized for the amount of business it generates. He noted they had positive recommendations from Town Counsel and other involved departments, and there was no doubt in his mind that if the petition is denied, the town would be in litigation voting opposite the opinion of Town Counsel. He said the subject matter before the Board was whether the petition met the requirements that have been outlined on numerous occasions. He added he was prepared to make a motion. Mr. Oriel pointed out there would only be a law suit if the DES wished to remain at this location. Attorney Sheridan referred to Section 5C under the zoning by-law, noting that in order for the Board to grant a special permit they must find adequate parking reasonably proximate to the applicant's premises. He also reminded the Board that the petitioner had requested a special permit and, therefore, that is the standard the Board should address themselves to.

Following additional discussion, Peter Ablondi motioned to table the matter. Selectman King said that although he recognizes there would be a number of problems in connection with this move; and although he would have liked to impose the necessary restrictions to off set some of these problems; because it would require a unanimous vote and Mr. Ablondi had indicated his opposition, he would move to accept the Town Counsel's opinion that no special permit was required. John DelPrete seconded Mr. King's motion and it was voted two to one to accept Town Counsel's opinion. Peter Ablondi voted in opposition.

TOWING CONTRACT:

A proposal requiring a towing contractor to reimburse the Town a portion of the price collected for each vehicle towed was briefly discussed. On the recommendation of Town Counsel, it was unanimously voted to review the effects of the by-law for one year without this requirement. Following one year's history, the provision will be inserted if it is warranted. On the motion of Peter Ablondi, it was unanimously voted to authorize the Purchasing Agent to seek bids on the towing contract as proposed.

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YOUTH COMMISSION MEMBERSHIP:

Peter Ablondi noted that terms of office for several members of the Youth Commission expired at the same time. He asked Town Counsel whether the language could be changed in the by-law to provide for terms to expire on an alternating basis so there would be continuity of membership. Town Counsel informed him that the by-law presently provides for staggered terms, however, probably because of resignations and delays in making appointments, there was a duplication of expiration dates of appointed members. Mrs. Gherna was directed to research the membership from its inception in an effort to comply with the terms of office spelled out in the original article.

BUREAU OF SPECIAL EDUCATION APPEALS (HEARING):

Receipt was noted of a memo from Town Counsel advising the first case involving the Town of Framingham before the Bureau of Child Advocacy of the State Department of Education (Martha Horne Hearing) was decided in the town's favor.

ASSISTANT SUPERINTENDENT OF TOWN OWNED BUILDINGS:

Receipt was noted of a letter from the Chairman of the Personnel Board advising they could not justify supporting the Board of Selectmen's recommendation to create the additional position of Assistant Superintendent of Town Owned Buildings for FY'77. Mr. King explained that their recommendation was made in an attempt to rectify a misunderstanding at the time Mr. Urbinati was hired. He pointed out at the time he was hired the minutes showed that he was hired as assistant, however, for some reason a pay classification was never assigned to this position. He said he would not argue with the Personnel Board if in their wisdom they do not feel it is justified.

ASSISTANT TREASURER/COLLECTOR:

Receipt was noted of a letter from the Chairman of the Personnel Board regarding the appointment of an Assistant Treasurer/Collector. Procedure in filling the appointment was discussed. Peter Ablondi questioned whether or not the procedure outlined for appointment of the Assistant Treasurer/Collector by the Treasurer/Collector, with the approval of the Board of Selectmen, should remain in effect in view of the change in the Treasurer's position from elective to appointive. He asked the Town Counsel to check into the statutory requirement on this point. Responding to a question from John King, Ms. Harney confirmed that job specifications and pay classification are established for this position. John King directed the Executive Secretary to schedule a meeting next week with the Treasurer/Collector for the purpose of discussing this matter. In the interim, job descriptions will be submitted to the Board for their review.

SHORT TERM PARKING - DOWNTOWN:

The Selectmen took the report submitted from the Municipal Parking Committee under advisement pending further investigation on abutters' requirements for short term parking and a public hearing on this basis will be scheduled in the near future. The Board accepted the report as a report of progress and Mr. Maltas will be directed to continue the work of the committee.

Also received was a request for a public hearing from Clough's Pharmacy concerning the proposed revision in policy (removal of 15 minute parking signs). This matter will be heard together with all others at a scheduled hearing.

FIREFIGHTERS' ARBITRATION - EXPENSES:

The Board unanimously voted to accept Attorney's fees and expenses in connection with Firefighters arbitration case.

COOPERS LYBRAND REPORT - DRAFT:

A copy of a draft of the final report of Coopers Lybrand was presented to the Board for their review. Following review and acceptance by the Board of Selectmen, Town Accountant and Town Treasurer, final printing will be done and the report will be submitted to the State Bureau of Accounts.

POLL WORKER ASSIGNMENTS:

As requested by John King, a report was prepared and submitted by the Executive Secretary on the number of town employees who worked at the polls during the Presidential and local primaries. John King referred to the initial discussion last week on this subject, explaining his concern stemmed from two memos from the Personnel Board dated February 12th and February 13th concerning temporary employees and misuse of salary account funds. He pointed out when these memos were received by the Board he raised questions and requested clarification from the Executive Secretary on February 17th, and again on February 24th. (Mr. King read both the memos received from the Personnel Board and the minutes of the Selectmen's meetings for the 17th and 24th of February). Following this, additional information was given to him regarding employees of the Tree Department who worked during their regular hours for another department. He explained the reason this matter was of concern to him was because the Board of Selectmen sign the Payroll Warrant under the penalty of perjury. It is, therefore, incumbent upon the Board, he said, to see that these warrants are correct and are not being abused. He noted that he had mentioned to the Executive Secretary the day of the primaries the number of employees that were absent on that particular day and asked him to find out the reasons they were absent, and who received dual pay.

Mr. Clarke's report, citing 4 town employees who worked at the polls, was briefly discussed. Mr. King said it was his understanding that there were 15 employees who worked in the Presidential Primaries and 17 in the Town Primaries. Because of this, he felt further investigation was necessary. He directed the Executive Secretary to submit, by next week-if possible-a break down of the number of town employees that served in a dual role on those particular dates, the amount of money paid to each on that day. He instructed Mr. Clarke to review the payrolls for the number of employees that served in a dual capacity in both elections, and also, for those employees that worked on their normal tour of duty, an explanation of how that particular day was handled.

One other area that concerned Mr. King was the designation of special municipal employees. He explained these designations were given to various departments, however, it was never intended to give that designation for the purpose of allowing town employees to work during their normal hours for some other town department. He said if these conditions exist, then the Personnel Board will have to develop a policy to correct this. John DeIprete pointed out that tree climbers, designated special municipal employees, are allowed to plow snow during their off hours only.

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POLL WORKER ASSIGNMENTS (CONT'D.):

John King said in order to correct the errors over the years, a policy should be developed that is fair to all town employees. He directed the Executive Secretary, in conjunction with the Personnel Department, to establish a firm policy concerning special municipal employees.

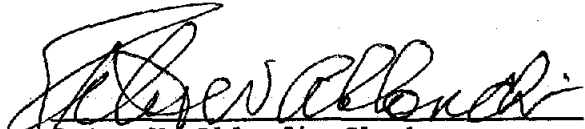
It was voted unanimously, on the motion of Peter Ablondi, to direct all departments under their jurisdiction, to submit a weekly absence record report to the Personnel Department with a copy to the Board of Selectmen, said report to include the names, dates and reasons for absence of all employees in each department. The Personnel Board will also be requested to adopt a similar policy for all other town departments which do not report directly to the Board of Selectmen.

A representative of the South Middlesex Daily News requested a copy of the report submitted by the Executive Secretary. John DelPrete changed his agreement to provide such a copy when John King recommended withholding information until a final tabulation is made on all poll workers.

EXECUTIVE SESSION:

At the request of Town Counsel it was unanimously voted to go into executive session for the purpose of discussing pending litigation. At the request of John King, it was determined that the subject matter was appropriate for executive session.

MEETING ADJOURNED AT 11:15 P.M.


Peter W. Ablondi, Clerk