

TOWN OF FRAMINGHAM

SELECTMEN'S RECORDS

REGULAR MEETING OF THE BOARD OF SELECTMEN OCTOBER 25, 1976

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

WARRANTS:

#33 - Oct. 25, 1976 - Bill - \$418,890.29
#34 - " - Pay Roll - \$872,962.26

SPECIAL MALT BEVERAGE AND WINE LICENSES:

Larned Hall House Council-Framingham State College, Larned Hall Rec. Rm., F.S.C., Oct. 28, 1976, 8 to 12 p.m.
Lilo's Club, 50 Hollis St., Club Quarters, Oct. 30, 8 to 12 p.m.
Clan Sutherland Pipe Band Ass'n., Village Hall, Oct. 30, 7:30 p.m. to 12 p.m.

DANCE LICENSE:

Lilo's Club, 50 Hollis St., Club Quarters, Oct. 30, 8 p.m. to 12 p.m.

LODGING HOUE LICENSE:

Jane F. Longworth, 14-16 Gordon St.

RATIFICATIONS:

Obstruct sidewalk - Bigham & Sons, Inc., 126-129 Concord St., taking down awnings, Oct. 21, 1976 to Nov. 19, 1976, Only for interval periods as necessitated.
Obstruct st.: Hollis House Realty Co., 71-77 Hollis St., point brick work on front of building, Oct. 25 to Nov. 10.
Open, occupy & obstruct st.: - Paine St. Realty, 2A Mill St., tie into town water, Nov. 1 to Nov. 4.

PETITION:

The petition of the Boston Edison Co. for the following permission was granted: California Ave., northwesterly side, from a point approx. 150' northeast of Worcester Rd., 3 poles (guy wire and anchor on the 1st pole); California Ave., southeast side, from a point approx. 535' northeast of Worcester Rd., 4 poles (guy wire and anchor on the 2nd pole. Also two guy wires and anchors on the 4th pole); California Ave., northwest side, approx. 295' southwest of Pennsylvania Ave., one pole.

VARIANCE:

It was voted to authorize the Building Commissioner to issue a permit to Alfred J. Lagrow, Jr., for the construction of a tool shed at 24 Savoy Rd., with a 25' rear yd.

JURORS:

The following Jurors were drawn by the Framingham Board of Selectmen on Oct. 25, 1976 for service on Dec. 6, 1976 at Cambridge:

Rizzo, Florence, Accounting Analyst, Raytheon, Waltham, (res. 158 Grant St.).
Luminari, Dorothy, Housewife, (res. 11 Leslie Rd.).
Zaffino, Dominic, Toll Service, New Eng. Tel., Framingham, (res. 7 Roch St.).
Pierozzi, Jennie, Tester, Fenwal, Fountain St., Framingham, (res. 940 Waverly St.).
Sugarman, David, Dept. Mgr., Mammoth Mart, Rte. 126, Ashland, (res. 16 Coolidge St.).
Wellington, Patricia, Housewife, (res. 886 Grove St.).
Tremblay, C. Paul, Tech. Writer, Hdwlett-Packard Co., 175 Wyman St., Waltham, (res. 42 River St.).
Creager, Carla E., Store Clerk, Caldor's, 121 Worcester Rd., Framingham, (res. 5 Upland Rd.).
Gray, Charles M., Jr., Traffic Controller & Contractor, FAA, FSS, Logan E. Boston, Ma-Gray Const., Boylston, Mass., (res. 16 Lilian Rd. Ext.).
Cyr, Michael J., Office Mgr., Advanced Automation, 500 Clark Rd., Tewksbury, Mass., (res. 20 Woodland Dr.).
Becherer, Mary E., Secretary, General Electric, Ashland, Mass., (res. 46 Maple St.).
Chute, Donald R., Model Maker, Bose Corp., 100 Mountain Rd., Framingham, (res. 36 Everit Ave.).
Cavicchio, Robert W., Raising Livestock Foreman, 482 Potter Rd., Framingham, (res. 482 Potter Rd.).

The following Jurors were drawn by the Framingham Board of Selectmen on Oct. 25, 1976 for service on Dec. 6, 1976 at Lowell:

Pierce, Thomas B., Sales Mgr., Jordan Marsh, Shoppers' World, Framingham, (res. 81 Davidson Rd.).
Kinsky, John E., Manager, General Electric, Ashland, Mass., (res. 14 Willowbrook Dr.).
Solari, Dorothy L., Sales, Windsor Button, Shoppers' World, Framingham, (res. 154 Fenwick St.).

APPOINTMENTS - COUNCIL ON AGING:

It was unanimously voted to appoint the following as members of the Council On Aging:
Fred Hengesch - for a term to expire May 1, 1977 (Vice Ann Orlando, resigned).
J. Merritt Brown, for a term to expire May 1, 1978.

HUMAN RELATIONS COMMISSION - RESIGNATION:

The Board accepted with regret the resignation of Norman Rosenblatt as a member of the Human Relations Commission. Thanks and appreciation will be extended to him from the Board for his diligent efforts and service to the community.

TOWN OF FRAMINGHAM

SELECTMEN'S RECORDS

October 25, 1976

(2)

HEARING - TREES AT CENTRE COMMON:

A public hearing was held in the Selectmen's Office, Room 21, Memorial Building, at 7:30 P.M., to discuss the removal of 4 trees at Framingham Centre Common. It was attended by Tree Warden Robert Ralston and a small number of residents of the Framingham Centre Common area, represented by Dr. Lorna Johnson, John Crane and Molly Evans. Mr. Ralston carefully outlined the potential problems resulting from old sugar maple trees on the perimeter of the Centre Common. He presented a map designating the types and sizes of trees and their specific locations. He also labeled each tree for specific removal over a four year period. During the year 1976 he recommended that it was important that four of the trees be removed to prevent danger to the public. He stated that these trees had reached the point where they could no longer be maintained properly without possible danger to the public because of the rotting limbs and potential storm damage. He pointed out that one of the trees in question had a large section of the top of the tree blown down and it was only good fortune that there were no pedestrians or school children injured by the loss of limbs from these trees. Selectman John DelPrete, concerned about losing trees in this area, suggested getting another opinion before removing any trees to see if there was a possibility of saving the trees. Mr. Ralston said he would be happy to seek another opinion, however, from a professional point of view it was almost impossible to save the trees, and even prolonging their life for a short span would result in rather ugly looking, completely deformed specimens. He stated that the sugar maple is particularly prone to damage as a result of road salts and the compaction which occurs over a period of years. He commented that all of these trees in question were well beyond the average life span of a sugar maple which is approximately 75 years.

Selectman John King asked whether there was funding available for the replacement of trees. Mr. Clarke, Executive Administrator, commented there was sufficient money available in the balance of the Centre Common Redevelopment Fund to purchase at least six replacement trees and still stay within the budget for the Centre Common Renovations. Mr. Ralston explained that replacement trees/^{pinoaks}would cost the Town \$75.00 each if purchased from Framingham Landscaping and would measure between five and six inches in calibre, 14 to 20 feet high. He pointed out these same trees, same size, would/^{cost}considerably more elsewhere. He stated that upon the recommendation of experts in the field, the pinoaks had been chosen as a replacement because they would be resistant to all of the difficulties which had been present with the maintenance of the sugar maples. Responding to a question raised by Selectman King, Mr. Ralston explained the replacement trees would take 25 to 30 years to grow to the height of the current maples.

John Crane, a resident in the area, maintained that the trees should be saved and no replacement should be made but that proper trimming and feeding would maintain them for many years to come. He commented that the Tree Warden was not being consistent about taking down dangerous trees as far as he was concerned. He cited a number of ash trees at the Common near the street which he said were far more of a danger than the maples, and commented he could not understand why the Tree Department wasted five days wiring these trees so their branches would not fall on Edgell Road when they should have removed them. Mr. Ralston explained that the professional opinions he had received were in accord with his, and completely different from Mr. Crane's. Mrs. Evans agreed that there would have to be some renovation and replacement. She offered the following suggestions: (1) putting in at least two rows of trees so the Common could be brought back to the character that existed prior to the turn of the century when there were a total of five rows of trees; (2) removal of two trees designated for removal in future years which were directly in the line of sight between the Unitarian Church and the Village Hall - but not replaced; and (3) using only one variety of oak, preferably crimson oak, as replacements. Mr. Ralston pointed out that crimson oak are very desirable, however almost impossible to find in any size at all in the entire New England area. Dr. Lorna Johnson questioned the possibility of planting the replacement trees in reasonable proximity of those that were to be removed but allowing a period of time for the replacement of trees to establish themselves and accomplish some growth before removing the old trees. Selectman King agreed with Dr. Johnson's suggestion.

By a unanimous vote, the Board of Selectmen recommended that no removal activity be started immediately and the suggestions for maintaining of trees and possible replacement without removal for a short period be reviewed. Selectman DelPrete emphasized that hearings should be held in each subsequent year on suggested removals as opposed to deciding on the entire proposal at this time. It was further recommended by Chairman Ablondi that a specific committee be appointed for the purpose of reviewing the tree situation on all of the parks and commons in the Town. He requested that each of the other two Selectmen make a recommendation of at least one member of a five member committee by Friday, October 29th so a five member committee of this nature could be appointed during the November 1 Selectmen's Meeting.

CONFERENCE - FIRE DEPARTMENT OVERTIME:

At the request of the Board of Selectmen, Fire Chief Byrne met with them to discuss overtime expenses in the Fire Department. In a lengthy report, facts and figures verifying the amount of overtime were presented to the Board. The Selectmen, who have repeatedly expressed a great deal of concern over the issue of overtime in the Fire Department, questioned why overtime expenses this year were out of line with the figures cited in past years. Chief Byrne explained that the number of total weeks of vacation time in his department has increased by 47 weeks this year due to the increasing seniority of his staff. In addition to the vacation policy, Chief Byrne pointed out Firefighters' attendance at the Academy and prolonged sick leave have been contributing factors as well. He told the Board that the situation will get worse before it gets better, and he predicted that the Fire Department will not have enough money in its overtime budget to make it through the fiscal year. Selectman King questioned the language in the work week requirement section of the contract. Chief Byrne explained the section, commenting that the Board of Selectmen signed the contract, he did not. Chairman Ablondi directed the Executive Administrator to work with the Fire Chief and the Finance Committee to determine the amount of money available and required to cover the overtime until the end of the current fiscal year.

TRAFFIC REGULATIONS:

On the recommendation of Safety Officer Sergeant Robert Foley, it was unanimously voted to approve the installation of the following signs:

NO PARKING BETWEEN SIGNS - On Salem End Rd. at Maynard Rd. intersection for a distance of twenty feet in each direction. (Northeast corner)

ONE HOUR PARKING - On Learned St. north side between Evergreen St. and Thurber St.

RESIDENT PARKING ONLY - In front of #15 and #17 Torrey St.

TOWN OF FRAMINGHAM

SELECTMEN'S RECORDS

October 25, 1976

(3)

OPINION OF VALUE - LAND ADJACENT TO EDWARDS CEMETERY:

The Board of Selectmen was advised by James Brockman, Chairman of the Real Property Committee, that on the request of Everett Wheat, Trustee of Edwards Cemetery, the Real Property Committee voted to request the Board to obtain an opinion of value on property contiguous to Edwards Cemetery. The property would be used for the expansion of the present cemetery. On the motion of John King, it was unanimously voted to authorize the Town Counsel to obtain an opinion of value on property owned by Charles W. and Lois A. Hunter, 2.06 acres listed on Assessor Sheet 292, Block 183, Lot 7.

DOWNTOWN PARKING:

On the request of the Downtown Promotion Council, it was unanimously voted to grant permission to allow free parking in the downtown area from December 1st through December 24th, 1976.

REALIGNMENT - AUTO INSURANCE:

At the request of John King, Senator Edward L. Burke reported on a public hearing which he attended last week on the realignment of territories for the purpose of rating auto insurance. He explained that the realignment plan for car insurance territories, initiated by the Insurance Commissioner to eliminate discrimination and inequities found in the present formula, will mean that car insurance purchased in Framingham will probably cost more. Territory designations were based on accident figures for the years 1973-1975, however, the figures could be misleading because of several factors. He added that he did not see any clear and compelling reason to believe that Framingham has been wrongfully designated, however, if the Town wanted to register a protest it could, within a 15 day period. Selectman King criticized the Insurance Commissioner for not having notified the Town of the proposed changes. He commented that he was very disturbed because the first he knew of the hearing was when he received notice from Senator Burke. He told Senator Burke that following receipt of his notice the matter was discussed by the Board and on his motion it was unanimously voted to direct the Town Counsel, or his designee, to appear at the hearing to protect the town's interests. Selectman King expressed concern that failure to appeal in a timely manner on the E.P.A. regulations for the Incinerator had developed into a costly mess and he was anxious to avoid a repetition in connection with the insurance rating. He asked Senator Burke to appeal the decision and offered the services of the Executive Administrator and the Town Counsel to refute the information used by the Commissioner.

Town Counsel told the Board that he has studied the issue and tried to read the material issued by the Insurance Commissioner, however, it was almost impossible to understand because of the complicated mathematical language used by the Commissioner. He said he checked some accident figures with Safety Officer Foley and found some discrepancies, however, it would take months to determine whether the Town has been unfairly designated as a higher insurance area. Selectman John DelPrete agreed that the Board should definitely appeal the change in designation for the Town. He criticized the Insurance Commissioner for penalizing Framingham at the expense of big cities, and he asked Senator Burke to use the unintelligibility of the text of the report as part of the appeal. Chairman Ablondi expressed concern that Framingham is being penalized for abutting many large roads, including the Mass. Turnpike. He asked Town Counsel to find out if the figures used by the Insurance Commission included accidents that occurred on Framingham property but involved out of towners. Following additional discussion, and on the motion of John King, it was unanimously voted to request Senator Burke, in conjunction with Town Counsel and the Executive Administrator, to formally appeal the territorial realignment proposal.

PLANNING DEPARTMENT STAFF SUPPORT:

Receipt was noted of a memo from Planning Director Christy Maltas, asking the Board to (1) request the Community Development Committee to allocate \$20,000 for the purpose of retaining the positions of Senior Project Analyst and Clerk Typist in the Planning Department and (2) requesting the position of Draftsman in the Planning Department to be funded under the CETA Program. In his memo, Mr. Maltas explained that as a result of the discontinuation of some federally funded programs his department will lose three staff positions which will greatly affect their ability to maintain a capable planning and management staff. Selectman King requested the Executive Administrator to investigate the feasibility of continuing all three positions with CETA funding rather than utilizing Community Development monies which, he said, he would rather see going into rehabilitation projects. Selectmen Ablondi and DelPrete agreed that Community Development monies should go into projects rather than staffing, however, Chairman Ablondi felt that it was also critical to maintain adequate staffing in the Planning Department. He asked Mr. Clarke to submit a report concerning CETA funding/availability at their next regularly scheduled meeting.

RAILROAD PROPERTY - FOUNTAIN STREET:

In connection with the Town's attempt to close the Flexi Flo operation on Fountain Street, Town Counsel had been requested to determine whether they were legally operating under the Town's zoning laws. Accordingly, Town Counsel submitted a detailed report on all activity, past and current, involving the railroad property located on Fountain Street, concluding their operation was legal. In a verbal report, Town Counsel told the Board that in 1960 it was possible for the Town to have made a case on the off loading of commodities, however, because they are already located there and have received 4 permits from the town for the very operation the Board is concerned about, it would be very difficult to stop their operation. He suggested he could pursue the question of air pollution caused by the Flexi Flo Operation at this location by asking the Department of Environmental Quality Engineering to investigate the effect it has on the facilities located nearby (school, etc.) if they wished. On the motion of John King, it was unanimously voted to direct Town Counsel to pursue this course of action.

INDEMNITY PANEL (POLICE AND FIRE):

Establishment of an Indemnity Panel which had been taken under advisement was reopened for discussion. The panel, comprised of five members, would study and determine the extent of the town's liability for occupational injuries in the Police and Fire Departments, and report their recommendations to the Board of Selectmen. On the recommendation of both the Director of Personnel and the Executive Administrator, it was unanimously voted to authorize the Personnel Director to institute the procedure for establishment of an Indemnity Panel.

DOWNTOWN FRAMINGHAM BEAUTIFICATION PROGRAM:

A request from an Ad Hoc Group of business men and banks for assistance to beautify downtown Framingham will be referred to the Community Development Committee for their consideration.

TOWN OF FRAMINGHAM
SELECTMEN'S RECORDS

October 25, 1976

(4)

OLD GATES ROAD - BARRICADE:

On the recommendation of the Executive Administrator, and following confirmation from Town Counsel that the matter was properly before the Board, it was unanimously voted to erect a barrier to block off a short section of public way referred to as Old Gates Road (immediately behind the Gaston Andrey Auto Agency) in order to prevent the use of the road. This action will be subject to the concurrence of the Board of Public Works. In the interim, Chairman Ablondi asked the Executive Administrator to investigate the feasibility of selling this parcel of land, subject to the easements thereon, in order to acquire tax revenue. Recommendations will be sought from the Real Property Committee.

STATUS OF LITIGATION (ROBERT ABLONDI):

In connection with an appeal initiated by the Board of Selectmen on the Robert Ablondi case, Town Counsel told the Board that a U.S. Supreme Court ruling last April could favorably affect the outcome of the appeal. The Court ruled that a Police Department may constitutionally regulate the length of an officer's hair and prohibit him from wearing a beard. Town Counsel said he attended a hearing on the case in Middlesex Superior Court and hopes to have a decision in several weeks.

NEWS ARTICLE CORRECTION - INCINERATOR LITIGATION:

Remarks attributed to both Selectman King and Town Counsel in an article appearing in the South Middlesex News concerning Town Counsel's appearance before a Master involving an incinerator suit against the Town by the International Incinerator Co. was disputed by both Town Counsel and Selectman King. Specifically, a report that Town Counsel had apologized to the Board of Selectmen for not personally attending a Master's Hearing was not correct. Both Town Counsel and Selectman King denied any apology was made or requested. Town Counsel explained the case, arising out of a claim for payment from a subcontractor in 1974, has been a subject of confusion because several people who did not know about the case made a number of statements about it. He pointed out he has kept the Board informed of the activities in this case, past and current, and in fact, had informed them of the hearing scheduled before the Master. There was an agreed statement of facts which had been worked out by himself and counsel for the general contractor and sub-contractor - both named in the suit - so there was no evidence being presented at that time. The status of the case was reviewed again by Town Counsel. He agreed he normally would have come before the Selectmen to request permission to designate some one in his place, however, in this case the facts had been agreed on beforehand and because of a conflict of dates, he was unable to attend the Master's Hearing and had designated Arthur White of his office. Selectman King also clarified his position. He noted he had been contacted by a news reporter some time after the issue and could not remember what had transpired exactly between him and Town Counsel at that point. He confirmed, however, that no apology was asked for or made. Chairman Ablondi suggested that the Executive Administrator should prepare an official statement for release to the public clarifying the issue.

CONSERVATION COMMISSION - CONFLICT OF INTEREST:


A question of possible conflict of interest resulting from a Conservation Commission Member's appearance before that Commission seeking approval to fill wetlands on Cove Avenue was discussed by the Board at the request of Selectman John DelPrete. Mr. DelPrete, critical of Conservation Commission Member Collins' action, said he had asked Town Counsel for his opinion on this issue and found that there was actually no legal conflict, however, as far as he was concerned, Mr. Collins' appearance before that Board was in poor taste and was a conflict - common sense wise. At the request of the Board, Town Counsel cited the conflict of interest statute, as well as the section dealing with Code of Ethics. He confirmed that the issue raised did not legally fall within the conflict of interest statute, however, did fall within the Code of Ethics statute which - he pointed out - does not carry a penalty. He suggested that Mr. Collins' action might reflect back to the Board of Selectmen since they are the appointing authority for Conservation Commission Members, however, he reiterated, there is no actual conflict of interest. Selectman DelPrete questioned why the abutters to the land in question were not notified. Town Counsel explained the statute has no provision for notice to abutters, however, he suggested the Board could file a bill requiring notification to abutters in all hearings before the Conservation Commission. On the motion of Selectman DelPrete, it was unanimously voted to direct the Executive Administrator to instruct the Conservation Commission to notify all abutters in any future hearings.

Selectman King agreed that Mr. DelPrete's question concerning conflict was well taken. He also agreed that Town Counsel's comments were technically correct, however, he felt that when a member of a Commission presents his own petition to that Commission it does give the appearance of suspicion. Mr. King explained that he nominated Edward Collins to the Commission because of his expertise in the building field, and because he could provide some balance to the Commission. He said he expected at the time of the appointment that Mr. Collins would exercise better judgment and would not present a petition before the Conservation Commission. He commented it was his understanding that this is the first time Mr. Collins has submitted a petition to the Commission since being appointed, and further, that he did not participate in that hearing as a Commissioner, but, nevertheless, it did give the appearance of suspicion. Mr. King agreed that it would be in the best interest of the Town if Mr. Collins resigned, however, suggested inviting him before the Board at their next meeting to discuss the matter.

Chairman Ablondi disagreed with his colleagues. He said it would be wrong to deny Mr. Collins the right to be heard because he is in business. He commented he was entitled to seek relief for his investment as well as any other private citizen.

Following additional discussion, it was agreed unanimously to invite Mr. Collins to speak with the Board at their next regularly scheduled meeting, November 1, 1976.

MEETING ADJOURNED AT 10:15 P.M.


John F. DelPrete, Clerk