

TOWN OF FRAMINGHAM
SELECTMEN'S RECORDS

NOVEMBER 20, 1989

The regular meeting of the Board of Selectmen was held at 7:30 P.M. Present: John F. King, Chairman, Philip B. Ernst, Clerk and John F. DelPrete. Also present: Edgar C. Gadbois, Executive Administrator.

WARRANTS:

#63 - November 20, 1989 - Bills - \$486,049.58
#64 - " " " - Miscellaneous - \$8,359,626.49
#65 - " " " - Salaries - \$1,749,269.27
#66 - " " " - Miscellaneous - \$1,274.94

SPECIAL ALL ALCOHOLIC BEVERAGE LICENSE:

The Massachusetts Peer Review Organization - Village Hall - December 15, 1989 - 7:30 P.M. to 11:30 P.M.
(Holiday Party)

SPECIAL MALT BEVERAGES AND WINE LICENSE:

S.M.I.L.E.S. - St. Stephen Hall, Clinton Street - November 25, 1989 - 8:00 P.M. to 1:00 A.M.

DANCE LICENSE:

S.M.I.L.E.S. - St. Stephen Parish Hall, Clinton Street - November 25, 1989 - 8:00 P.M. to 1:00 A.M.

MOTOR VEHICLE LICENSES:

Class II:

Low Cost Auto Rentals, Inc. - 46 Water Street
European Engineering, Inc. - 16 Cochituate Road

SECOND HAND ARTICLES LICENSE:

Tom Schmidek of Nova Jewelry Company - 303 Worcester Road

RATIFICATIONS:

Permit to Open, Occupy and Obstruct a Street:

Commonwealth Gas Company - 48 Franklin Street - November 14, 1989 to finish.

JOINT ELECTION - BOARD OF TRUSTEES OF EDGELL GROVE CEMETERY:

Dr. Willis, Jeff Fitts, Sally Brown and Anne Bianchi, members of the Board of Trustees of Edgell Grove Cemetery were in attendance. Selectman John King was nominated by Selectman Philip Ernst and seconded by Selectman John DelPrete to be Chairman of the joint election.

Mr. Richard Karb was recommended by the Board of Trustees. Mr. Paul Downey was also a candidate.

Dr. Willis stated that he spoke to Paul Downey and he said that because the Board of Trustees had someone else in mind who had accepted, he would not appear and to take his name off.

Richard Karb was nominated by Philip Ernst.

On a Roll Call Vote, Mrs. Bianchi, Mrs. Brown, Mr. Fitts, Dr. Willis, Philip Ernst and John King voted to elect Richard Karb.

The members of the Board of Trustees of Edgell Grove Cemetery and the Board of Selectmen voted unanimously to elect Richard Karb, 99 Parmenter Road, as a Trustee of Edgell Grove Cemetery, until the next Annual Town Election, April 1990.

NEW ENGLAND TELEPHONE & TELEGRAPH COMPANY PETITION - TOWN OWNED ROAD:

Mr. Joe Bausk of New England Telephone Company appeared. He stated that on the hearing last week for the service terminal on Town Owned Road, he said he talked to the person from the committee of the United Church of Christ in which they were meeting today and explained the situation to him, what it was for and where it was. He thought there was going to be someone representing tonight but he didn't know if they were here or not.

The Board took the matter under advisement.

RECOMMENDATIONS OF SAFETY OFFICER:

Upon the recommendation of the Safety Officer, the Board voted the installation of a Slow Curve sign on Beacon Street at Magnolia Street for southbound traffic.

The Board voted the installation of a No Parking Anytime sign on Arsenal Road southeast side from Normandy Road to Anzio Road.

The Board voted the installation of a One Way Street sign on Pearl Harbor Road eastbound from the southern end near Normandy Road to the northerly end near Anzio Road.

CORRESPONDENCE FROM E. FARRINGTON AND LT. FOLEY RE: FARMER'S MARKET - VILLAGE HALL:

The Board denied the request of Mr. Richard Rubant to conduct a Farmer's Market in the parking lot of the Village Hall in 1990 based on the recommendations of Elaine Farrington, President of the Framingham Improvement Association and Lt. Robert Foley, Safety Officer.

CORRESPONDENCE FROM ARTHUR NOONAN, PLANNING DIRECTOR RE: HOLLIS COURT PARKING LOT MAINTENANCE:

The Planning Director is requesting that the Board of Selectmen ask the Board of Public Works to accept responsibility of maintaining this lot.

Selectman John King suggested that until we get correspondence from the Board of Public Works that the Director of Town Owned Buildings be informed to take care of that problem until that's resolved.

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LETTER FROM MARIE NORTON - REQUEST TO DESIGNATE JOHN MURPHY TO REPRESENT THEIR ORGANIZATION AT MEETINGS WHEN MATTERS RELATING TO CONRAIL ARE DISCUSSED:

Selectman Ernst felt that the organization could designate their own representative to attend meetings.

Selectman King felt the request was legitimate. He would feel very comfortable having John Murphy as a spokesman at these meetings.

The matter was tabled.

RESIGNATION FROM HISTORICAL COMMISSION AND HISTORIC DISTRICT COMMISSION:

The Board voted to accept the resignation of Bonita Bryant with regret, as a member of the Historical Commission and Historic District Commission.

HEARING - HAN DYNASTY - LIQUOR VIOLATION:

Chief Brent Larrabee and Officer Blaise Tersoni attended. Chief Larrabee stated that this incident occurred on October 14 at about 11:20 P.M. in the evening. The police were called to Han Dynasty because apparently 4 disruptive people and a dispute on a bar bill and food tab. The tab came to \$34.00 and \$22.00 being for liquor. It was their contention at that time, Officer Tersoni had spoken with Mr. Yung who represented himself as the Manager and he said he was too busy to provide much information. Officer Tersoni then also spoke to him and he told him he had spoken with the waitress and she claimed that she was too busy to look for any identification.

Chief Larrabee stated that there was some contrary testimony by the management of Han Dynasty to that issue and based on that, the Board asked us to do some more follow-ups.

The Police Chief said he mispoke last week when he said that the court case was resolved. It has not. It's still pending in the criminal side. One of the defendants is here. The 17 year old. He also brought a written statement from Officer Blaise Tersoni in which she said that she was served a Kamakasi at the Han Dynasty on that date at that time without ever being asked for identification. She is willing to speak before the Board if necessary. At the time, she was a juvenile. She has since had her 18th birthday.

Attorney Rogers stated that he would like to make some statements and would also, in light of what the Chief has said, bring in some witnesses. He has with him 4 people this evening who were there that evening. One of them being the waitress, 3 of them being people who were in the lounge who overheard conversations of this young lady and the other young ladies with respect to not having been served liquor.

Attorney Rogers stated that in light of what his client is accused of doing, that the Board take into consideration not only this young lady and her truth and veracity but also his clients and their truth and veracity and my independent witnesses who have been called in here who actually called him up today and indicated that they would be more than willing to come in because of these violations that they said did not occur. The waitress and one of the other ladies will deny that anything was ever served to the ladies in question. The gentlemen who were of age were served. There's no question about that. This lady was never served that evening.

Ms. Roberta Weitzler was the waitress who was on duty that evening. She is here this evening. What she told Attorney Rogers is that approximately 10:00 P.M., two young men came into the restaurant and into the lounge area. These two gentlemen had been in on numerous occasions before. She knew them to be of age and she served them. They first ordered a Scorpion Bowl which serves more than one person. Sometime subsequent to that, 4 young ladies and another gentleman came in. She knew this gentleman as well. This gentleman had been in on various occasions before and she knew that he was of age. The gentleman ordered another Scorpion Bowl. At some point during the close of the evening, the gentleman then ordered another Kamakasi drink. The girls were becoming very disruptive. They were table hopping from one table to another. They never ordered anything. They didn't order food or drinks. The gentleman then ordered two types of rice and spare ribs or something similar to that. When the girls came over, they did share in the food. At no time did they ever share in any of the drinks. They never ordered drinks nor were they ever served drinks. If the gentleman gave them something to drink, we don't know. They never asked to be served which is why they were never carded.

Attorney Rogers stated that he also has as witnesses, two guards from M.C.I. Framingham. One is via an affidavit and one is here this evening who would testify that they were sitting toward the latter part of the time next to the gentleman and the ladies as the ladies were hopping around the restaurant. At no time did they see any drinks being served to the ladies.

Attorney Rogers has Ms Pat Biat who was in the restaurant before the people came in and they were there after the people left and she will testify that amongst other things that she overheard and saw, one of the girls said when Officer Tersoni came, you can't do anything because we didn't have anything to drink. That was directed to the police and the management. One of the girls said, I can't believe that they called the police. This is after the girls refused to pay the bill and they said, I can't believe they called the Police, we weren't drinking. It's just because we didn't pay the bill.

Attorney Rogers stated that the two gentlemen came first, then 15 or 20 minutes later another gentleman and the 3 or 4 young ladies came and sat down. The ladies then went table hopping. They visisted with many people in the restaurant that they knew. They sat down and had food. The two gentlemen who came in at first then got up and left. They got up and left without paying the bill.

Ms Biat will also state that she heard them say, they were standing next to her. They had a discussion on paying for the drinks on the bill. One of the gentlemen said, I don't care what happens to them, let's get out of here, we're not going to pay the bill. The two gentlemen who came in first and did the ordering of the drinks left the restaurant and left the 4 girls and 1 gentleman there. The bill had been presented and left at the table. The two gentlemen left. The 3 or 4 girls were all around and the last one in there was stopped by the waitress and said somebody's got to pay this bill and that's when all this started.

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His client then tried to talk to them about paying the bill. They indicated that they didn't have the money to pay the bill and they weren't going to pay the bill. At that point, Mr. Yung called the police. Obviously, he wasn't going to call the police if he had been serving minors. He called the Police to have them come down to straighten out the mess. Officer Tersoni, Officer Nicoli and another officer came to the scene. As one of the young ladies was leaving she said, I'll get you for doing this to us. I'm going to tell them that you were serving a minor. That, Mrs. Biat will also testify to. She will also testify that she saw the men ordering the drinks and not the girls.

Mrs. Connors who is here this evening will testify that she heard one of the girls say, I didn't have anything but a coke and I have \$1.00 to pay for the coke.

Attorney Rogers stated that to the best of his knowledge and he didn't ask Officer Tersoni this, but he believes that Officer Tersoni never saw the girls drink. None of his witnesses who were there ever saw the girls drink. The waitress never served the girls. No one ever saw the girls drink. The only person who said the girls drank is the young lady herself who was arrested and there are criminal complaints lodged against her that are pending.

Attorney Rogers stated that his clients run a very reputable establishment. They didn't want any trouble. That's why they called the police that evening to come and settle it. The witnesses have nothing to gain by being here. They were patrons. The waitress is no longer an employee. He thinks you have to weigh the evidence and weigh who perhaps is really telling the truth.

Selectman Ernst asked the waitress how a Scorpion Bowl is consumed. They sip out of a bowl.

Ms. Weitzler, the waitress, stated that they give two straws. She also stated that she never served the girls.

Selectman Ernst stated that the Police Report indicated that the girls were anebriated at the time the officer arrived. He asked the waitress if she noticed this when they arrived.

The waitress said she didn't notice. They were hopping up and down and all over the place and there was one girl short.

Attorney Rogers suggested that he didn't know what happened. He didn't know if they left, went out to the car or if they had liquor in the car. He didn't know if it was liquor, maybe it was some drugs. He didn't know if Officer Tersoni gave them any alcohol related tests. We do know they became very loud and very boistrous and that when the bill was brought over that's when everything broke out.

Chief Larrabee stated that Ms. Christino is here. As Mr. Rogers knows, the police can't offer her any immunity for her pending criminal procedures and none was offered and none will be given. Added flavor changes the prospective of what he's saying. He didn't mean to impune Ms. Weitzler's remembrance of the issue or the night, but at the time in her statement given to the police at that day and at that time when things are most clear to all of our memories in a memorialization of that event, she made it very clear she knew none of the people at the table and now I'm told tonight that she's familiar with several of the people. Maybe that became clear between that night and tonight. I'm not saying that she is lying. I'm just saying at the time that the remembrance of that particular event, she didn't know anybody. Also, she made it very clear that she didn't check any I.D.'s for anybody at that table and as I remember last week, it was the manager's remembrance of that night that nobody at that table was served. Somewhat of a conflict that those girls never sat down. They came in and walked around and never sat down. Now, I'm hearing from Mr. Rogers he has people who saw them sitting there. I would suggest that in many restaurants I don't always pay attention to all the patrons in the restaurant. Again, using Ms. Weitzler's statement there, she said they weren't intoxicated when they came in, yet I guess everybody is pretty much in agreement, including the management and the police that they were intoxicated when they left. Ms. Christino has nothing at all to gain in this particular endeavor. Certainly, the Board of Selectmen has nothing to do with her court case. She's not going to get any preferential treatment for being here. Basically, it comes down to who do we believe and who has something to gain here.

Attorney Rogers stated that in the report and there is nothing in there that would indicate that the waitress indicated that she didn't know any of the individuals. She clearly doesn't know them by name but she does know that those gentlemen had been in on many occasions and had been carded and she did know that they were of age.

Selectman Ernst asked Ms. Christino what happened that night.

Ms. Christino stated that she ordered a drink. There were three guys and two girls at the table. They were all together about 10:30. She stated that she did not drink the Scorpion Bowl. She had ordered another drink.

Selectman Ernst asked where they were prior to going to the restaurant.

Ms. Christino stated that they were just driving around, no where specific.

Selectman Ernst asked if they were drinking before.

Ms. Christino stated no.

Officer Tersoni stated that there were three guys and two girls sitting at the table and each Scorpion Bowl from what the waitress stated to him, serves four people and as she stated previously, that it's a drink that goes in the center of the table and just thinks that it's common practice to card everyone at the table when you serve a drink that serves more than one person. Ms. Christino does not look 21 and it would raise some question in his mind that she was old enough to drink.

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Ms. Weitzler stated that Scorpion Bowls are for two or more people. They don't have to be for four people. She stated that when the drinks were ordered they were placed in front of the gentlemen. The girls weren't even at the table. They were going from place to place. They weren't even there when the drinks were placed or ordered.

Selectman Ernst stated that Ms. Christino didn't look 21 to him.

Ms. Pat Biot of Natick stated that she was at Han Dynasty having dinner with her husband and after dinner they sat in the lounge. They sat at the bar at the entrance way and she had watched the two gentlemen sitting at the table by themselves and watched the kids come in and join them afterwards. The two that were there previously went to the men's room and came back. They were standing behind me talking about how they didn't want to pay the bills for their drinks and the second gentleman said, we can't leave them here to pay for our drinks. The first gentleman said, I don't give a F what happens to them, I'm getting out of here. At that point they did leave. Then the youngsters left shortly after that when the waitress had gone up to them and saying that they were leaving without paying their bill. At that point, it ended up that they had talked about paying the bill. One youngster was out there saying he did not have anything to drink. That's not our bill. All we drank was soda and all I have is \$1.00. Then they ended up arguing with the establishment. The police were called in and when the officers got there and just before they arrested them, they had said, you can't do anything to me, I didn't have anything to drink. One of the girls came into the lounge and asked for a light for her cigarette and while she was there she had said to the people that she got the light from, can you believe this, we didn't have anything to drink, all they're doing is arresting us because we didn't pay our bill. She went back out and the children harrassed the police to no end. The police arrested them and they asked why they were being arrested. The police said for distrubing the peace. One girl yelled, I'll fix you, I'll tell them you served a minor.

Selectman Ernst asked where she was sitting.

Mrs. Biot stated that she was sitting at the bar and they were sitting two tables over.

Selectman Ernst asked why she noticed.

Mrs. Biot stated that because one of the young ladies looked like a youngster she knew and she had done a double look and thought she looked quite young and she had started watching them. When the two gentlemen were at the table arguing and using obsenities standing right behind her about how they were not going to pay the bill, she got very nosy and started watching.

Selectman Ernst asked Mrs. Biot if she noticed them over the course of the evening.

Mrs. Biot stated that she did. They were hopping around all over the place. The girls were going in and out of the Ladie's Room. She thought they were very disruptive.

Mrs. Connors stated that her attention was brought to it when the waitress came running to the front saying, Sam, Sam. They were on their way out the door without paying the bill. Up until that time, she hadn't noticed anything. They were stopped at the door. The other couple of kids came back in because one of the girls was stopped. They came back into the restaurant. One of the girls made the statement at the cash register, I only had a coke and I have a \$1.00 to pay for it. That's about all I heard.

Mr. Robert Lucas of Holliston and a guard at M.C.I. stated that at the night at Han Dynasty, his attention was drawn to them because they were loud. He did not see anyone serve the minors. He stated that he did not see a drink in front of them.

Selectman Ernst asked where he was sitting.

Mr. Lucas stated that they were sitting in back of them. They were sitting in front at a round table. They were sitting right in back.

Selectman King stated that they will review the case with the officer involved. The reason that the Framingham Police were at the restaurant was as a result of a call that was placed to the Police Department for assistance. We know what the officer testified last week as to what he found and what action he had taken on that night and the arrest of four young people. It is also important that we don't lose sight of the fact that the officer the next day, which was October 15th followed up on what had transpired the day before and so that nobody loses sight of what actually took place on the 15th, I'd like to have the officer read into the record the complete statement that he had taken from the waitress the next day after the incident.

Officer Blaise Tersoni stated on October 15th he spoke with Ms. Weitzler at the Police Station. He asked Ms. Weitzler how long she had been employed at Han Dynasty. She stated for approximately one year. He asked what her job entailed. She stated that she was a waitress serving food and drinks to customers. He then asked Ms. Weitzler to reconstruct the incident that occurred on October 14th.

Ms. Weitzler stated that around 10:30 P.M. she noticed a group of seven people occupying two tables in the middle of the room in front of the bar. She stated that the group pushed two tables together. When asked if she knew any of the people in the group, Ms. Weitzler stated no, but the four people arrested had been at the table since 10:30 P.M. He then asked Ms. Weitzler what had been ordered during the period they were there. She stated that the group ordered two Scorpion Bowls. Each Scorpion Bowl serves four people. Also ordered were a Kamakasi and Dr. Funk. Ms. Weitzler pointed these drinks out to me from Check #5569 that she had written on October 14, 1989. Also on the same check were an order of Pork Fried Rice and an order of Spare Ribs. The bill totalled \$34.18. He then asked Ms. Weitzler if she had checked identification of any of the people sitting at the two tables. Ms. Weitzler stated no.

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Officer Tersoni asked if it was common practice to check I.D.'s at the Han Dynasty.

Ms. Weitzler stated that it was common practice and that she always checks I.D.'s but for some reason, because of the crowd, she failed to check the I.D.'s of the people sitting at the two tables.

Ms. Weitzler stated that during the hour the group was there they were extremely obnoxious using profanities as they spoke. The group continuously got very loud and was finally shut off by Ms. Weitzler from all alcohol.

Ms. Weitzler totalled the check and placed it on the table. Moments later, Ms. Weitzler noticed a few people in the group had left the restaurant. Hearing that the rest of the party was going to skip out without paying the tab, she kept a close eye on the table. The rest of the group did get up and start walking towards the door. Ms. Weitzler grabbed the check and hustled over to the group that was leaving and handed it to a female known as Laurie Newton and stated, You have to pay your bill. Ms. Newton replied, I don't have any money.

Ms. Weitzler notified the management about the incident.

Ms. Weitzler then stated that the police arrived shortly after.

Officer Tersoni asked Ms. Weitzler what Mr. Yung's position was within the restaurant.

Ms. Weitzler stated that Mr. Yung was the manager, possibly part owner, she was not sure. His job, that she has observed since she's been employed is to greet and seat people that come into the restaurant to eat or drink. To walk around the floor and serve meals when busy.

Ms. Weitzler stated that Mr. Yung does walk around the floor quite frequently.

Selectman King stated that was taken on October 15th, one day after Framingham Police were called to the restaurant. Today is now November 20th. The memories are much better the day after than leaving your memory to chance from October 15th thru November 20th. He wanted to bring to the attention of the owners of the establishment that when they came before this Board asking for a transfer of license, particularly Mr. DelPrete, stated our deep concern about the sale of alcoholic beverages as it affects minors in the Town of Framingham. You assured this Board that there would be no problems with the restaurant, that you completely understood the rules and regulations relative to the sale of alcoholic beverages. Subsequent to that, during a sting operation that was conducted by the Framingham Police Department, you are well aware that you were one of many establishments that were caught in the sting operation selling alcoholic beverages to a minor, that minor happened to be an employee of the Police Department. And, here we are tonight talking about a most serious situation where we have three young people, two of them 18 years of age and one 17 years of age that were served alcoholic beverages in your restaurant. It concerns me greatly that we have such a lack of respect for a liquor license that we don't check individuals coming in to a restaurant at 10:30 on a Saturday night for proper I.D.'s and have close supervision while they are in that restaurant. The manager made a statement that he was too busy to check what was going on in the restaurant itself and he was working in the kitchen. You have just heard the statement that was read into the record by the waitress that said that she was busy, she failed to check I.D.'s, she failed to control the situation at the restaurant at that particular time. If something happened, more serious and these youngsters left your restaurant and we had a serious accident, great criticism would be levied upon the Town of Framingham for the way we administer the sale of alcoholic beverages in our community and a lack of proper police protection in the Town.

Selectman King feels we do a good job in policing the sale of alcoholic beverages within our community. When we did have a problem with the establishment of Happy Hours in these restaurants when people were served two for one drinks early on in the evening - we had one establishment that had a Happy Hour from 11:00 A.M. to 2:00 A.M. the following morning. We took the lead as a community and put a stop to that. Subsequent to that, a law was passed in the Commonwealth of Massachusetts that completely eliminated Happy Hours in our community. That is a direct result as to what happens at the table that you're sitting at. A license is a privilege, it's not a right. It is a very serious matter when we have youngsters at that age at 10:30 and 11:00 on a Saturday night in a restaurant with complete lack of supervision.

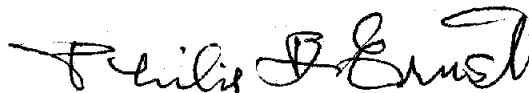
The matter was taken under advisement.

At the close of the meeting, the Board voted to suspend the liquor license of Han Dynasty for four days on the motion of Selectman Ernst.

Selectman King asked the Executive Administrator if a meeting had been set up with Liquor Licenseholders on proposed new fees.

Mr. Gadbois said he spoke with Police Chief about his seminar that he usually has in the Fall with the various establishments in regards to the use of liquor licenses, but he is not having it this year, so he was going to send out a communication to the establishments and request comments.

The meeting adjourned at 8:30 P.M.



PHILIP B. ERNST, CLERK