

TOWN OF FRAMINGHAM
SELECTMEN'S RECORDS

DECEMBER 16, 1991

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

WARRANTS:

#72 - December 18, 1991 - Bills - \$526,590.75
#73 - " " " - Miscellaneous - \$177,191.72
#74 - " " " - Salaries - \$1,717,218.73

SPECIAL MALT BEVERAGES AND WINE LICENSE:

Framingham State College - Ram's Den Pub, December 17, 1991 - 3:00 P.M. - 7:30 P.M. (Athletic Dept. Holiday Party)

SUNDAY ENTERTAINMENT LICENSE:

Pizza Wagon - 1B Hamilton Street - 1 video game - Sundays 1992

RATIFICATIONS:

Permit to Open, Occupy and Obstruct a Street;

Framingham Animal Humane Society - Lot #2 Dudley Road - December 16 to 17, 1991

CONFERENCE - AARON BIKOFSKY, TOWN COUNSEL RE: POLICE CHIEF'S CORRESPONDENCE:

Aaron Bikofsky, Town Counsel and Police Chief Larrabee were in attendance to discuss the concerns of the Police Chief relative to a Strong Chief's Law. Mr. Aaron Bikofsky stated that there are two sections of the General Laws under which Police Departments are governed. One is Section 97 of Chapter 41 and one is Section 97A. 97 is sometimes referred to as the Weak Chief's Statute and 97A as the Strong Chief statute. Framingham operates under 97 and has for many years. Under 97, the Police Department is under the direction of the Board of Selectmen. The Board of Selectmen act as Police Commissioners and as the Commissioners, the Board appoints a Chief of Police and such other police officers as they determine are necessary. The Selectmen are also responsible to make the rules and regulations of the Police Department under 97 and then depending upon whether or not the town operates under Chapter 31 which is the Civil Service statute, it makes certain appointments under that statute to the Police Department. A few years ago the Chief's position in Framingham was removed from Civil Service and as a result of that any Chief appointed under 97 would no longer in the town be subject to Civil Service and would be appointed for a period not to exceed three years by the Board of Selectmen. Any Chief appointed by the Board of Selectmen under 97 can be removed for cause after a hearing. Under 97A, the Police Department is not under the direction of the Selectmen but rather it's established by the Selectmen and is under the supervision of a Chief. This is the basic difference between 97A and 97. Under 97A the Chief runs the department. The Selectmen may under 97A appoint officers if that's the way the town chooses to go. The Chief, under 97A is responsible for making the rules and regulations of the department and he/she then submits them to the Selectmen for review and they are automatically, he believed, deemed to be approved if they are not disapproved by the Board within thirty days. As in 97, Chiefs are typically appointed by the Board under 97A for a period not to exceed three years and also they can be removed for cause after a hearing. Previous Chiefs have been under Civil Service but Civil Service can come into play whether it is 97 or 97A. Until 1987, in Framingham the Chief was under Civil Service - no longer.

Selectman Ernst asked about the Fire Chief, if that is a separate statute.

Mr. Bikofsky stated they are separate statutes. The Fire Department operates under Chapter 48 and there are again two comparable provisions dealing with the Fire Chief such as there were with the Police Chief, that is Section 42 and 42A of Chapter 48. In Framingham, in 1922 the town decided that it would operate under Section 42 which is the Strong Fire Chief statute. In 1985, the town rescinded that action and decided that it would operate under 42A which again to use the word strong and weak, is the Weak Fire Chief statute. Under 42 which is the one Framingham had up until 1985, the Fire Department was under the control of the Chief of the department. That chief was appointed by the Selectmen and he could be removed for cause by the Selectmen at any time. The Chief was the one who, under that section appointed deputies and firefighters and he had full and absolute authority to administer the department and make all rules and regulations. We are now under 42A and that calls for a Fire Department established under the direction of the Board of Selectmen so the Selectmen, in effect, become the Fire Commissioners, are still responsible for appointing the Chief and also appoint such other officers as the Board determines are necessary to carry out the functions of the department. He did not believe the Fire Chief in Framingham has ever been under Civil Service.

Selectman Ernst questioned the similarity between 42, Strong Fire Chief and 97A for the Police Chief.

Mr. Bikofsky stated they are similar in the sense that 42 is the Strong Fire Chief and 97A is the Strong Police Chief. To that extent they are similar.

Chief Larrabee stated that it was not his intention nor was it in his design to gather more power for this position or for his own position. He was looking at the future. It has been his practice for the five years he has been chief that anytime he makes a personnel change he makes a rule and regulation or a policy and procedure he sends it to the Board for an affirmative checkoff. If the Board were to say not to do that, obviously that would be the rule. He is very content with the way he serves but he thinks there should be some recognition of the future. In his view, it is something we should think about and possibly consider bringing it before Town Meeting or bring it before the Charter Commission.

Selectman King expressed his concerns by stating if it ain't broke, don't fix it and it seemed to him that if we were having problems with the orderly operation of the department you are right, you should come to us and say I feel that there are some impediments to the operation of the department that I think should be changed but that to his knowledge hasn't been the case.

Chief Larrabee stated that it would appear to him from where he sits that he is functioning as a 97A chief anyway and then at the future if it were the Board's desire to place this in front of the Town Meeting to change it, that's the simple request. He never said there was an impediment here and never said there was anything but a very good strong working relationship between the Board, Mr. Gadbois and himself and before that, Mr. Clarke.

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CONFERENCE - AARON BIKOFSKY, TOWN COUNSEL RE: POLICE CHIEF'S CORRESPONDENCE:

Selectman Stefanini stated that it didn't seem to him as though the Board has ever operated under Section 97. He didn't see where this is a major change in policy.

Selectman Ernst believed the Chief was suggesting that the Board accept 97A which is the way we have been operating and he is legitimizing the way we have been operating.

Selectman King thought the Chief was looking for additional authority that he feels he doesn't presently have. He was referring to the question of Lieutenant Masiello when the Chief appeared before the Board when the Board over-ruled the Chief's five-day suspension and the Board's request for a weekly report on overtime and he thought the Chief was concerned about the Board's concern about paying for mail order degrees within the department.

Selectman Stefanini commented that Framingham is considered among the finest, if not the finest of Police Departments in the state. It is extremely well respected not only for the professionalism within the department, their success rate, their ability to consistently do more with less.

Selectman Ernst stated that he never had difficulty with the Police Chief or Fire Chief. He personally thought this is a subject matter for the Charter Commission, if passed, if not, maybe it would be a subject for reconsideration for the annual town meeting if it is the feeling of the Board and we could do that within the next couple of weeks.

Following the discussion, the Board thanked Chief Larrabee and Aaron Bikofsky for attending. No action was taken.

SOUTH MIDDLESEX NON-PROFIT HOUSING CORPORATION:

Attorney Jim Handrahan of Bowditch, Dewey, Garrahan and Lander was in attendance to explain that SMOC is in the process of re-financing the 73 Hollis Street property under a program through the Federal Home Loan Board which will substantially reduce the interest rate on the present mortgage. In 1987 when the town, through the Community Development Block Grant, loaned some \$51,000 for the rehabilitation of the Hollis Street property, the agency gave to the town a mortgage on the property of \$51,000 which was a fourth mortgage behind a mortgage to the Framingham Trust Company of approximately \$710,000 and two mortgages to the Institute for Community Economics from the western part of the state. This loan would pay off the Framingham Trust Company and one of the Institute for Community Economics loans. It would put the town in pretty much the same position it is in now. What they are asking for in this document is that the Board agree to the Provident Institution for savings assuming that first position previously held by Framingham Trust Company. The closing has accelerated faster than they had originally anticipated and they are left with the option of either paying off the town Block Grant loan or coming before the Board and asking you to subordinate your position to the new financing and that is what they are asking for.

Upon the motion of Selectman King, it was voted unanimously to grant conditional approval based upon a recommendation from Town Counsel and the Planning Director.

CONFERENCE - REQUEST FROM OWNER OF DUNKIN DONUTS, 1170 WORCESTER ROAD FOR A 24 HOUR OPERATION:

Mr. Steve Alepede, franchise owner of Dunkin Donuts of 1170 Worcester Road attended to request a 24 hour operation. He stated that he has been the owner for seven years and there has never been any incidents of disturbance of any kind. Because of the nature of the business, a coffee business on Route 9 which is a well-travelled road and further up is the exit off the Mass. Pike, he thought it was time to apply for a 24 hour license. It would help him defray increasing costs in taxes. It would also provide a service to the public for people going to work different hours of the night.

Selectman King recalled a hearing before the Board when abutters to this property came before the Board that lived to the rear of the property and they were contemplating a 24 hour operation and there were objections and this Board refused to grant the 24 hour operation and he would be opposed to it the same reasons today as he was then because there are residential properties to the rear of this particular location.

Following the discussion, the Board voted unanimously to deny the request on the motion of Selectman King.

CONFERENCE - ALAN FERGUSON, ASSESSOR:

Alan Ferguson, Chief Assessor attended along with Marsha Platt and Arthur Holmes, members of the Board of Assessors. Mr. Ferguson wanted to speak about three issues that were discussed the past two weeks. One is to go with an estimated third quarter bill, the second is to discuss the issue of the reviews of commercial and residential properties and the issue of the so-called shifting and the third point is to discuss why the tax bills are going up. The reasons why they asked for the delay of the actual bills and the issuance of a third quarter bill which the legislation has passed in both the House and Senate and is sitting on the Governor's desk, he hasn't signed it yet, it was passed last Thursday - they asked for the permission to issue the third estimated bill is to address the areas that they found that resulted from their review of the commercial and residential property assessments. What they have done in the past six months basically is to assemble a system of consultants, of staff and of the Board to review the basis for assessments, the application of the assessment procedures and to come to some determination on how to respond to both the abatement requests and to make a determination in terms of what the state of the system is in terms of generating new values for fiscal year 92. What they found was a system that was basically sound but had some holes in it that are a result of the last Revaluation Program and what they are trying to do now is to complete the framework for assessment, fix the holes, address any problems that are existing and to generate fair and accurate assessments across the board. Basically, their recommendation is as a result of the conclusion of their review of the establishment of the internal assessing system and their efforts to establish the fiscal 92 bills.

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CONFERENCE - ALAN FERGUSON, ASSESSOR (continued):

Marsha Platt stated when they started this they made certain assumptions that the data they were working with had some consistency to it and consequently an analysis of the data and trying to review it for fiscal 92 values should be fairly straight forward and what Alan has found is that there are some big gaps and rather than rush forward and produce values that had been adjusted to reflect 92 assessments it seems prudent to take a few more weeks to try to make sure that the values that we are putting on are, in fact, equitable and will save a great deal of time later on.

Arthur Holmes concurred with both Alan and Marsha because when you are doing a comprehensive review of properties into the capacity that was undertaken by the Board in itself in having to go out and try to consummate all this in a very short period of time and do the job, we had to recognize the fact that we had under values and over values and basically this is what we are trying to do is correct this and give us this time to put our information together in a presentable manner so the taxpayers will have a good understanding of what they are trying to do and where we have come in this program.

Selectman Ernst asked if we give the extra time would we be looking at this situation a year from now. Would these gaps be filled in.

Alan Ferguson stated what they are trying to do is follow a two step process. The first step they would like to do is fix the obvious mistakes. The second thing is to generate a new system to come up with an in-house approach to mass appraise all of the income producing properties and that second step is what they intend to follow beginning this winter. They intend to do a full re-collection, re-description and then do the analysis on the commercial properties. They are trying to fix the obvious mistakes, the mistakes that should not have to occur a second time, some of which exceed \$100,000 in taxes. The second step is to fully implement the development of the in-house capacity to generate the commercial values and that work should be done by the spring time.

Alan Ferguson stated there has been much discussion on the issue of rising commercial values or falling commercial values and declining residential values and whether one is going up or down faster than the other. The discussion is a little pre-mature since we haven't even developed the values. The point is the issue is not one of proportionately of residential values or commercial values. It is one of fairness and accuracy and our reviews have indicated in some instances where a commercial property value is going to go up. Some reviews have indicated where some commercial properties are going to go down and so much of that analogy applies to the residential property. What they want to focus on is whether or not the assessments we are generating are fair to each property, not whether it is fair just because it is residential or commercial. The issue is the assessment not the level of change from one assessment to another in various years.

Selectman Stefanini asked if the problems we are facing today we should not be facing a year from today assuming the system is up and running.

Alan Ferguson stated what they are basically doing is completing a step that was not fully completed during the Re-valuation Program and that is going out and reviewing the final results, the answers of the values, checking out and making sure that the generated value reflects the value of the property. It is just a step that you have to go through and he didn't think there was enough time last year to complete that fully and that's what we are trying to pick up for now is that shortfall in time.

Selectman Stefanini asked what the potential liability in the overlay or the abatement account if the town were to go ahead with inaccurate values? Is it substantial?

Alan Ferguson stated there are several properties alone which will probably receive abatements of close to \$100,000. There are other properties that are also in line for substantial abatements of not quite that magnitude but the numbers are fairly large. We are easily talking about hundreds of thousands and millions of dollars in terms of revenues that have to be returned back to the property owners.

Mr. Gadbois, Executive Administrator explained that when the estimated bill goes out by December 30th there will be a letter which will outline the issue. Then sometime between January and March, a newsletter will be sent out preferably sometime in February. When the final bill goes out in early March there will also be a letter in that mailing so the taxpayer will get three pieces of literature outlining the issue.

Selectman King asked Alan Ferguson what steps will be put in place during the coming year so we don't have to go through this again next year.

Alan Ferguson stated they have taken several steps already. They have implemented an incumbent expense review process. They have developed a data base for taking information and analyzing and generating reasonable guidelines for them to use in setting the values. They have begun the conversion process of the commercial properties from their external systems onto their internal systems and will have begun the full re-inspection of the commercial properties in the spring time.

Following considerable discussion, the Board voted unanimously to approve estimated third quarter bills if the legislation enacted by the Legislature currently on the Governor's desk is signed by him, on the motion of Selectman Stefanini.

CONFERENCE - REQUEST FROM OWNER OF CORNER DELI, 1 EDGELL ROAD FOR A 24 HOUR OPERATION:

Mr. Anthony Musto and Raymond Bavaro, owners of the Corner Deli, 1 Edgell Road attended to request renewal of their 24 hour operation.

The Board voted unanimously to approve the request through June 30, 1992.

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TEACHER DEFERRAL PROGRAM:

Mr. Gadbois explained that two weeks ago at the Special Town Meeting, a substantial amount of money was placed in the Stabilization Fund. Those monies came from the Teacher Deferral Program. If they are going to send out tax bills at the end of this month, it will be necessary for the Town Accountant to prepare a Performer Re-Cap Sheet and in order to prepare it, the Teacher Deferral Program has to be in place by then. It is incumbent upon the Board of Selectmen to adopt the proposal.

Selectman Stefanini moved that Chapter 336 of the Acts of 1991, the so-called Teacher Deferral Program be adopted by the Town of Framingham, seconded by Selectman King and voted unanimously.

CORRESPONDENCE FROM POLICE CHIEF LARRABEE RE: LIQUOR VIOLATIONS AT TWO ESTABLISHMENTS:

The Board voted unanimously to set up hearings regarding liquor violations for The Five Continents Inc. d/b/a Spring Garden, 1656 Worcester Road, All Alcoholic Restaurant and Mario Sannicandro d/b/a Wayside Market, 80 Wavelry Street - Wines and Malt Beverages as a Package Goods store. The hearings will be set for December 30, 1991.

CORRESPONDENCE FROM POLICE CHIEF LARRABEE RE: STREET OPENING PERMITS:

The Board reviewed correspondence relative to procedures and restrictions for street opening permits.

CORRESPONDENCE REGARDING STREET OPENING PERMITS:

The Board reviewed correspondence regarding a policy for issuing street opening permits.

Selectman Stefanini had concerns regarding a letter from the Commonwealth Gas Company stating their objections to the language and that the changes would be unlawful. He would like to have a letter from Public Works as to their opinion and a letter from Town Counsel as to his opinion as to whether or not the town can place restrictions not only on the Gas Company but any other utility or contractor. He also had concerns as to whether or not Public Works intends to abide by these regulations.

The Board referred the matter to the Executive Administrator.

The Board noted receipt of the following items:

Correspondence from Police Chief Larrabee re: Liquor Regulations (Cover Charges)

Correspondence from a citizen on Highgate Road re: parking of commercial vehicles in residential area.
The matter was also referred to the Government Study Committee.

Correspondence from Community Development Coordinator re: letter going out to organizations.

Fire Department overtime week ending December 7 and 14, 1991.

Police Department overtime week ending December 13, 1991.

UNFINISHED BUSINESS:

LIQUOR VIOLATION - COBBLESTONE'S, INC. - 44 FRANKLIN STREET:

The Board voted unanimously to accept the Police Chief's recommendation for a warning to be sent.

NEW BUSINESS:

SPECIAL TOWN MEETING:

Selectman King brought up a request from the Planning Board to call a Special Town Meeting for the purpose of appointing an Associate Member to sit on one case that the Planning Board has presently under review. Two members of the Planning Board have conflicts of interest and are requesting that the town Zoning By-Law be changed in order to appoint an Associate Member and asked that a Special Town Meeting be called in January.

Selectman King moved that a Special Town Meeting be called for January 14, 1992. The motion was seconded by Selectman Stefanini and voted unanimously.

Selectman King moved that the warrant be opened for the Special Town Meeting on January 14th and only one article be accepted. The motion was seconded by Selectman Stefanini and voted unanimously.

The Board voted unanimously that the warrant be closed on the motion of Selectman King.

SISTER COMMUNITY - RUSSIA:

Selectman Stefanini discussed receipt of a letter from a gentleman who came back from the Soviet Union where he visited a community, a suburb of St. Petersburg called Lomanozoff. They are interested in possible relationship with the town as a sister community.

CAPITAL PROJECTS:

Selectman Stefanini stated that a status report on the capital projects was received. The Permanent Building Committee met last Wednesday of which he is the Board's representative. At that meeting they began to set the wheels in motion to begin the selection process for an architect for the Police Station and hopefully for the Fire Station. They will be meeting again this Wednesday night and will hopefully narrow the list from 37 to 10 with participation of the Police and Fire Chiefs will begin the process of selecting architects and hold interviews on the 30th.

LETTER FROM THE FIRE CHIEF TO THE PRESIDENT OF LOCAL #1652:

A letter was read from the Fire Chief to the President of Local #1652 regarding Local #1652 has agreed to waive their rights under the contract, one hour off for Christmas.

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CUSHING HOSPITAL:

Selectman Ernst stated that the Cushing Task Force had a second meeting and some concern was expressed relative to the D.C.P.O. had indicated that they are going to close the fences sometime in January. Mr. Gadbois and himself plan to meet with that department to see if they can retain North Avenue as a public way.

Selectman Stefanini suggested inviting John Civolinski or another representative to come before the Board to brief the Board as to the current status, the safety arrangements being made and access limitations to the property and roads at some future meeting.

CONFERENCE - FIRE CHIEF MICHAEL SMITH:

Fire Chief Michael Smith attended to discuss his objectives for the coming year. The first is to deal with the 4.22 percent reduction as requested by the Finance Committee. This reduction is going to have an impact. They are working on plans formulating a reduction of this magnitude. It appears to be a reduction of nine additional firefighters. As a member of the Board of Ambulance Governors, he is working on putting a package together for the Board to keep informed of where the Emergency Medical System is going and hopefully that Board will have a suggestion for the Fire Commissioners with respect to the EMS services also. That is his primary goal for this year to make sure that whatever decision we make whether it be to continue with existing manning level, reduced manning level, whether we reduce fire suppression or reduce emergency medical services.

Chief Smith also discussed the possibility of establishing an apprenticeship program for the final year students with Keefe Technical School to get some work out with the Town of Framingham working on traffic lights and fire alarm. There are over thirty-six intersections being maintained and they have something in the nature of six hundred master and street boxes. He felt that if we could develop a Work Study Program and maybe through the Wire Inspector, get them some credit hours towards their hours as Journeymen maybe we could develop a program and relieve themselves to some manpower costs. His third and final program is Fire Prevention. They have two new people in there. They made it a five day per week job and were able to get two firefighters that work five days per week. They have been catching quite a few code violators in the restaurants and construction trades. It also re-instituted a program that he had begun with the Bookmobile. When the Bookmobile was going to go out for bid for private he approached Bill Forristall, Purchasing Agent, and through the Library Board of Trustees they were able to obtain it and the Fire Prevention Bureau was using it for the elderly and Day Care Centers for young children because those are the two largest victims of fire. He was in contact with a women's organization of insurance companies and through them they would like to establish a program of re-instituting that.

Members of the Board discussed staffing with the Chief.

Selectman Stefanini added a fourth goal to work with the Ambulance Board of Governors to formulate a recommendaiton as to Emergency Medical Services. He praised the Chief for his ingenuity and creativity in terms of providing services. Selectman Stefanini discussed the issue of traffic lights being eliminated in certain areas of town.


The Board members discussed the issue of Cushing Hospital and the level of cooperation that D.C.P.O has with the Police and Fire Chiefs relative to public safety.

Selectman Ernst asked about the ambulance service in Framingham and Natick with the merge of the two hospitals.

Chief Smith stated that considering all the training that is in place within the fire service, EMS is a ripe place with the combination of the two hospitals, it would be an ideal opportunity to start in a small way of regionalizing Emergency Medical Services either within the fire service or starting a third service.

Following considerable discussion, the Board thanked Chief Smith for attending.

The meeting adjourned at 10:15 P.M.



JOHN A. STEFANINI, CLERK