

SELECTMEN'S MEETING
DECEMBER 1, 1997

AWARD - VETERAN'S DEPARTMENT - The owners of the new Burger King, Larry and Paige Kohler, which opened on Waverly Street, came before the Board to award a check for \$1,000 to the Veteran's Services Department for use for Veteran's benefits. Mr. Bradley announced that Mr. Kohler was a VietNam veteran and generously provided to veterans.

PUBLIC PARTICIPATION

Tilio Franchi rose to ask Mr. Marcoux about progress on the Roosevelt School. A final answer is pending from the school department. If that does not come to pass, RFP's will then be circulated.

ATTENDANCE: Kathleen M. Pendergast, Valerie W. Mulvey and John M. Kahn. Mr. Petrini arrived subsequently.

The meeting was called to order at 7:45 by Ms. Pendergast.

CONFERENCE - THOMAS HENNESSY, CEO OF COLUMBIA HCA:

Mr. Hennessy introduced himself to the Board and explained that the mission of the hospital was to provide 100% satisfaction to the patients. He finds the facilities excellent and hopes to improve them where necessary. Ms. Pendergast asked if changes were envisioned in the present structure and Mr. Hennessy stated there were not. No large scale changes are in the plans to date. Mr. Petrini asked about growth and a potential sale of the hospital. Mr. Hennessy explained that the strategic plan of Columbia is to exit from Massachusetts and a sale is anticipated within several months. The two hospitals will remain open. Questions about the foundation were asked by Mr. Petrini. Mr. Kahn also expressed concerns about the purchaser of the hospital.

CHANGE OF MANAGER - GROUND ROUND, 170 SPEEN STREET.

No representative from Ground Round came before the Board.

CONFERENCE - CHIEF OF POLICE - ANNOUNCEMENT OF GRANT:

The Town of Framingham has been awarded a local community block grant award. The money will provide for radios, a motorcycle, overtime funding, an eagle container for storage, scuba gear, enhanced security at target locations, drug courts, youth crime prevention, etc. were all provisions of the grant. A second grant for over \$102,000 was also awarded to Framingham, for community policing and GIS crime location. Lt. Steven Carl, author of the grants, has been responsible for the grant writing which has resulted in over three million dollars in grant money. Mr. Kahn asked that Lt. Carl's personnel file indicate his contribution to the community.

HEARING - REVOCATION OF COMMON VICTUALER'S LICENSE - DUNKIN DONUTS - WORCESTER ROAD:

Attorney DeAngelis, representing Mr. Fernandes, Mike Donnelly, Police Department, Atchinson Callahan, representing Mr. Fernandes, Bill Glynn construction engineer and other representatives of Dunkin Donuts were also present. All those testifying were duly sworn in. Officer Donnelly was asked for his recommendation. Officer Donnelly testified that the flag man hired by Dunkin Donuts was unable to consistently keep traffic from backing up on Route 9. As currently operated, the drive-up window poses a safety hazard. Numerous complaints have been received from the public. Records of accidents at the site were requested by Ms. Mulvey. Three accidents occurred in 1997. Mr. Petrini questioned the plan submitted by the petitioner, but Officer Donnelly has not completed his study of the plans. Photographs were submitted to the Board by Officer Donnelly. The records should reflect that the Board has received photographs of the current situation at Dunkin Donuts. Copies of the accident reports were requested by Mr. Kahn. Counsel was asked if there was an objection to the introduction of accidents reports. Attorney Callahan would ask for a continuance to review Officer Donnelly's reports. Mr. Kahn withdrew his request for expediency sake. Mr. Colten, Building Commissioner gave his report which included background information of the site. Mr. Colten felt that the site was a nuisance and a safety hazard. Mr. Colten recommends looking at the revocation of the common victualer's license. The new proposals submitted by the petitioner need review by the Zoning Board of Appeals. The Court stenographer was asked to mark the photographs and the letter submitted by the Building Commissioner. Mr. Colten became aware of the traffic problems in 1993.

An opening statement was made by Attorney Callahan. Section 9 of Chapter 143 was discussed by the Attorney. Improper operation was outlined in a former decision, the Saxon case, which listed what would constitute improper operation. Mr. Callahan stated that their position was that there was no improper operation of the common victualer. Extending the length of the queuing line should mitigate the problems. The current proposal before the ZBA should mitigate the problems and the ZBA should be allowed to rule on this subject. Ms. Pendergast offered Mr. Callahan an opportunity to cross examine the witness and then the Board could discuss possible solutions. Mr. Petrini asked counsel about the Selectmen's authority to revoke the common victualer's license. Mr. Petrini found the arguments of counsel perplexing. Mr. Callahan stated that the Selectmen did not have authority to revoke common victualer's licenses due to the traffic problems on Route 9. Mr. Kahn felt that the Saxon case allowed the local licensing authority the right to revoke a license for reasons of public safety. Officer Donnelly was asked questions by Counsel relative to the role of safety officer. Questions were also asked about the Safety Officer's role in reviewing plans. The drive-through by-laws were questioned by Mr. Callahan. Extensive cross examination occurred. Mr. Kahn interjected and stated that the questioning was getting far afield and only the appropriate plan should be addressed. Alternative options were hoped for by Ms. Pendergast. Mr. Kahn's concern was that the situation currently existing is inherently dangerous. The problem could be solved by shutting down the drive through window until such time as remedial measures could be instituted. Ms. Mulvey and Mr. Petrini echoed Mr. Kahn's concerns and recommended shutting down the drive through. Ms. Pendergast asked that Mr. Fernandes hire a police detail during the critical hours and during the holiday season until such time as a new kiosk could be operative. Officer Donnelly stated that a police detail was not a permanent solution. After review with his client, Mr. Callahan proposed hiring a police detail from 7:30-9:30 A.M. for a two week period to mitigate this problem. Officer Donnelly was asked the rate for police details. Mr. Kahn noted that the peak hours were from 7:00 a.m. - 11:00 a.m. Mr. Petrini asked if the petitioners considered shutting down the window. It was stated that this would be a tremendous blow to the business. Ms. Pendergast proposed that Officer Donnelly return in two weeks and review the situation. Mr. Callahan asked about the timing regarding the ZBA decision. The final agreement was to have a police detail from 7:00 am to 11:00 am and on December 15th there would be a review. As conditions evolve, a lot attendant could be used as opposed to a police detail. Mr. Kahn stated that the Board would rely on Officer Donnelly's perception of the situation. Mr. Callahan suggested that the Board continue the hearing, Officer Donnelly report on December 15th and there be further proceedings at that time. Ms. Pendergast moved that the hearing be continued generally and in the interim period between now and December 15th, a police detail be provided from 7:00 A.M. to 11:00 A.M. on weekdays and a report from Officer Donnelly be received on December 15th. Ms. Mulvey seconded the motion which carried. It was so voted.

REVIEW OF WARRANT ARTICLES

Mr. Rees was asked to report on the status of free cash and the impact of the financial articles. A balance sheet for submission to the Department of Revenue would be approximately \$340,000. The auditors will review the situation to make every effort to certify free cash before Town Meeting. The Finance Committee has been asked for a copy of their report for the December 8th meeting. Mr. Rees would recommend that Town Meeting go forward even if free cash was not certified in order to send out tax bills on January 1st. All efforts will be made to certify free cash before Town Meeting. Mr. Marcoux reviewed the balance sheet. The total funds available were \$1,900,000. Mr. Marcoux would not recommend using the money in the insurance reserve fund. Mr. Petrini asked questions about the sixty day accrual rule. \$604,000 was appropriated at the last town meeting. The balance sheet will be provided to the Board when available. Mr. Kahn would like a copy of the balance sheet when it is submitted. A plan of action for safeguards is being implemented. A report from the finance Committee and the auditors was requested.

Article 3 - no unpaid bills are anticipated at town Meeting. Mr. Petrini moved that the Selectmen support town meeting that there are no unpaid bills to be satisfied. Ms. Mulvey seconded the motion which carried.

Article 4 - Indemnification of Police Officers for \$78,000 due to the Pasqualone and Gately case. Ms. Mulvey moved and Mr. Petrini seconded support for article 4.

Article 5 - Money for the Tercentennial Commission was not recommend by Mr. Marcoux. Ms. Mulvey wanted to expend the funds and hope to get returns to the Town. Mr. King strongly recommended funding of this article. Mr. Petrini questioned whether there was exploration of other communities. The total budget would be another \$25,000. Mr. Petrini moved to support the request of \$25,000 for the Tercentennial Commission. Ms. Mulvey seconded the motion which carried.

Article 6 - Aerial Ladder Fire Truck - Mr. Marcoux recommended support. The total would be \$550,000 which would be a bonding issue. No funding would be expended this year. The Finance Committee supported this article. Mr. Kahn moved favorable action on article six. Ms. Mulvey seconded the motion which carried.

Article 7 - Using unappropriated money for snow guards. Ms. Mulvey moved and Mr. Petrini seconded the approval of the request of the Permanent Building Committee. All Selectmen were in favor.

Article 8,9,10 - Sewer bonds. Finance Committee recommends support. Mr. Petrini recommended support on Articles 9 & 10 and to hold off on article 8. Ms. Mulvey seconded the motion which carried. A report will be forthcoming on article 8.

Article 12 - Furnishings for Nevins Hall. Mr. Marcoux recommend approval. Ms. Mulvey moved and Mr. Petrini seconded the motion for approval.

Article 13- Request for an Enterprise type of accounting for the Lift Bus system. Ms. Mulvey moved and Mr. Kahn seconded. A point of information was asked by Mr. Petrini about the insulation of this enterprise fund. Segregation of the retained earnings was a matter of concern from the Board. The motion carried.

ACTION ITEMS

The minutes of September 22, 1997 were approved by the Board. Ms. Mulvey moved and Mr. Petrini seconded the motion to approve. It was so voted.

The request of Joseph L. Simonelli to fill the unexpired term of Jack Plaxco was reviewed by the Board. Mr. Marcoux recommend acceptance of the resignation with regret. Mr. Petrini moved and Mr. Mulvey seconded the motion to accept his recommendation. Ms. Pendergast moved and Mr. Petrini seconded the motion to send a letter of thanks to Mr. Plaxco for his long years of service.

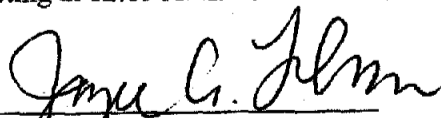
The request of the Police Departments regarding the approval of a T.I.P.S. program (alcohol education) Ms. Mulvey moved and Ms. Pendergast seconded the request which carried.

The request for the nomination of James Divver to Metro West Health was approved by the Board. Ms. Mulvey moved and Mr. Petrini seconded the motion which carried. It was so voted.

Ms Mulvey moved that the topic of goals and objectives be placed on the next week's agenda. Mr. Kahn asked for a meeting schedule which would take the Board through next April. Also, Mr. Kahn would like expectations for Mr. Marcoux to be established by the Board prior to his evaluation. Ms. Pendergast would prefer discussion of meeting schedules after the first of the year. Mr. Kahn would like to meet on December 29th.

Mr. Petrini moved to go into Executive Session for the purposes of discussing collective bargaining and to only reconvene for the purpose of adjournment. Ms. Mulvey seconded the motion which carried. A roll call vote was taken with all in the affirmative.

The Selectmen returned to public session to adjourn the meeting at 12:15 A.M. It was so voted.


JOYCE A. TOLMAN, CLERK