

SELECTMAN'S MEETING
JANUARY 21, 1999

PROCLAMATION: National Catholic Schools Week - Carl DiMaiti, Marian High, Mary Ellen Wyman, St. Tarcisius School & James Barrett, St. Bridget's School Principals were honored by the Selectmen and Senator David Magnani. Student representatives from all Framingham Catholic School were in attendance. Ms. Connie Dwyer introduced Father Hobson representing Monsignor Francis Strahan. Also president was Father John Sheridan and Father Alfred Stankard. Mr. Petrini presented a proclamation to all Principals. Ms. Mulvey congratulated all present.

ATTENDANCE: Christopher J. Petrini, Joyce A. Tolman, Valerie W. Mulvey, John M. Kahn and Charles J. Sisitsky.

Mr. Petrini called the meeting to order at 7:40 p.m.

PUBLIC PARTICIPATION

Robert O'Neil, 46 Irving Street, spoke about strategic economic policy. Mr. Kahn suggested that Mr. O'Neil work with the committee process in town. Tony Bloise, resident of Old Conn Path, spoke about the recommendations of the Financial Task Force with regard to Town Counsel's contract. He stated that the document is illegal and Town Counsel did not deserve a pension. Additionally, Mr. Bloise suggested that the Board look for an outside full service law firm.

CONFERENCE - VOTE TO ACCEPT BOND SALE- PAUL MORMINO,
TREASURER/COLLECTOR:

Mr. Mormino reported that the town maintained a double A bond rating. He also noted that Paine-Webber was the low bidder for the bond issue. Ms. Tolman asked Mr. Mormino to advise the public as the Moody's bond report. Mr. Mormino said that the town was complimented on having a general fund surplus, the restructuring set-up for the town with nine division heads and a large industrial base in the town. Mr. Petrini reviewed Moody's report which indicated that significant progress was shown. The establishment of a five year capital plan was considered a plus. Mr. Kahn noted that the budgets were put together under the direction of the Town Manager, Russell Marcoux.

MOTION:

Moved by Ms. Tolman, seconded by Mr. Sisitsky to accept the Bond Sale.

The Selectmen voted the following motion:

The Meeting considered the \$20,043,000 Municipal Purpose Loan of 1999, Bonds to be issued by the Town. The Town Treasurer reminded the Meeting that it had been decided that the Bonds should be advertised for sale by circularizing leading investment bankers and banks situated in New England, New York, and other financial centers. He reported that he had so advertised the Bonds for sale by distributing a Preliminary Official Statement and Notice of Sale dated January 7, 1999, and a final Official Statement dated January 21, 1999, prepared all in accordance with SEC Rule 15c2-12. The following were all the bids received for the purchase of said Bonds, each bid including interest accrued to date of delivery, namely,

Thereupon, after full discussion and upon motion duly made and seconded, it was

"VOTED: That all action taken by the Town Treasurer in advertising for public sale the \$20,043,000 Municipal Purpose Loan of 1999, Bonds (the "Bonds") of the Town authorized under Chapter 44, Sections 7 and 16, of the Massachusetts General Laws, as amended and supplemented, under Chapter 645 of the Massachusetts Acts of 1948, as amended and by votes of the Town duly adopted as further described herein and, in that connection, preparing and distributing a Preliminary Official Statement and Notice of Sale and a Final Official Statement, be and hereby is ratified, confirmed, approved and adopted:

That the Bonds shall be dated as of February 1, 1999, payable on July 15 in each of the years 2000 to 2019, inclusive, as stated below, shall be in the denomination of \$5,000 or any authorized multiple thereof and shall be numbered consecutively; and subject to the provisions of the Vote, the Bonds shall be in such form as the Treasurer and a majority of the Selectmen shall determine or approve by their execution of the Bonds;

That the Bonds shall be a consolidated issue of Bonds composed of the Bonds described in Schedule A attached hereto which by reference thereto is hereby incorporated in and made a part of this Vote ("Schedule A");

That the Bonds maturing on and before February 1, 2009 shall not be subject to redemption prior to their stated maturity dates. The Bonds maturing on and after February 1, 2010 shall be subject to redemption prior to their stated maturity dates, at the option of the District, on and after February 1, 2009, either in whole or in part at any time, and if in part, by lot within a maturity on any interest payment date, at the following redemption prices (expressed as a percentage of the principal amount) plus interest accrued to the date set for redemption:

<u>Redemption Period</u>	<u>Redemption Prices</u>
February 1, 2009 to January 31, 2010	101.0%
February 1, 2010 to January 31, 2011	100.5
February 1, 2011 and thereafter	100.0

That the Bonds shall originally be issued by means of a book-entry system evidencing ownership and transfer of the Bonds; and in the event of failure or termination of the book-entry system, State Street Bank and Trust Company, in Boston, Massachusetts, shall issue replacement bonds in the form of fully registered certificates;

That said State Street Bank and Trust Company, shall act as Bond Registrar, Transfer Agent and Paying Agent, therefore;

That the Bonds maturing in each respective year shall bear interest payable on February 1, and August 1 in each year, commencing August 1, 1999, at the respective rates per annum as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2000	\$1,043,000	5.250%	2010	\$1,000,000	4.250%
2001	\$1,000,000	4.625%	2011	\$1,000,000	4.350%
2002	\$1,000,000	4.375%	2012	\$1,000,000	4.450%
2003	\$1,000,000	4.250%	2013	\$1,000,000	4.550%
2004	\$1,000,000	4.000%	2014	\$1,000,000	4.650%
2005	\$1,000,000	5.250%	2015	\$1,000,000	4.250%
2006	\$1,000,000	4.000%	2016	\$1,000,000	4.750%
2007	\$1,000,000	4.000%	2017	\$1,000,000	4.750%
2008	\$1,000,000	4.000%	2018	\$1,000,000	4.750%
2009	\$1,000,000	4.100%	2019	\$1,000,000	4.750%

That the bid of **Pain Webber Incorporated** to purchase the Bonds at a price of 100.001% and interest accrued to date of delivery, resulting in a net interest cost of **59,430,814.89** and a true interest cost rate of **4.4734893%**, being the best bid received for the Bonds, bearing interest at the lowest net interest cost, be and it hereby is accepted, and the Town Treasurer be and hereby is authorized to deliver the Bonds to the aforesaid purchaser or order against payment therefor;

That the Board of Selectmen and the Treasurer be, and hereby are, authorized to execute and deliver a Continuing Disclosure Certificate generally as described in the Official Statement relating to the Bonds and to incorporate by reference thereto in each Bond such Certificate, both in such form as the signatories may approve by their execution thereof, and the obligation of the Town contained in such Certificate, are hereby approved and confirmed, and

That the Board of Selectmen, the Treasurer and the Town Clerk be and hereby are, and each of them severally is authorized to take such action, and to execute and deliver such certificates, receipts, or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing Vote."

CONTINUED HEARING - BOSTON EDISON -GRANT STREET-RELOCATION OF GUY WIRES & ANCHORS: JOANNE O'LEARY, CUSTOMER SERVICE REPRESENTATIVE:

Representatives from Boston Edison came before the Board to request the placement of a pole along Grant Street. Boston Edison is seeking two anchor guides. The pole installation will support public safety. Mr. Sisitsky stated that he had previous issues with the lack of response from Boston Edison and was now satisfied that the utility companies did everything possible to rectify any problems.

MOTION:

Moved by Mr. Sisitsky seconded by Mr. Kahn, to approve the petitioner's request. The motion carried.

REPORT - TOWN KENNEL:

Mr. Marcoux explained the various documents submitted for the Selectmen's review and suggested that the Board proceed with the construction. The Animal Control Officer would like to keep the kennel in the same area. Ms. Bannon, Precinct 11, reported that the Department of Interior made five stipulations for use of the kennel. A condition of the original grant was that the kennel could not be enlarged and a rest room must be made available to the public. The ZBA has granted a permit to use the building as a town kennel. The Building Commissioner reported that a building permit is needed and a problem exists with the word alteration. The Capital Budget Committee has requested an additional \$250,000 to complete work on the kennel. With regard to regionalization, only Marlborough has expressed interest in the concept. Ms. Bannon was hopeful that the Selectmen would ask the Conservation Commission to "relax" the word alteration. Ms. Bannon asked that the Conservation Commission post a meeting next week to review the subject. Mr. Kahn asked Mr. Marcoux about the status of the regionalization study. Mr. Marcoux stated that none of the communities interviewed were willing to provide a direct agreement or any commitment for regionalization.

MOTION:

Moved by Mr. Kahn that the Board waive the prohibition against alteration of the kennel as stated in the May 17, 1972 letter, and ask the Conservation Commission to do the same. Further request a joint meeting with the Conservation Commission and Town Counsel to consider this plan. Seconded by Ms. Mulvey and so voted.

DISCUSSION:

Mr. Sisitsky stated that the Conservation Commission rejected the Selectman's request with regard to enlargement. Ms. Tolman was confused as to what Ms. Bannon's requests were. She questioned whether the kennel would have to be re-built. Ms. Bannon stated that both alteration and enlargement were terms to be addressed. The Building Commissioner reported that extensive repairs were necessary and the building should come down. Ms. Tolman asked Mr. Marcoux if he looked at other sites. Mr. Marcoux stated that Loring Drive was looked at as an alternative. Ms. Bannon stated that Loring would require much work. Mr. Kahn noted that none of the neighbors abutting the Macomber kennel site have objected to the kennel and he felt that the site should be retained. Mr. Petrini was in favor of a joint meeting. Mr. Sisitsky felt the Board should not move forward with a new kennel at this point and would like Town Counsel to be present at the meeting with the Conservation Commission.

MOTION:

Moved by Mr. Sisitsky, that MAPC help undertake a study for a regional kennel. Seconded by Ms. Mulvey and so voted.

JAMES MCCANN - REQUEST FOR COUNSEL

James McCann came before the Selectmen to request that Aaron Bikofsky to confer with and represent Town Meeting members in disputes with the Town Clerk. Mr. McCann stated that he felt his request was important. As a student of government, Mr. McCann felt that Framingham's form of government was a model for the country. Mr. McCann stated that, as a Town Meeting member, his charge was to educate himself as to the workings of the town. Mr. McCann said that the education process was stuck and that he could not carry on further discussion or obtain any further information from the Town Clerk. Mr. McCann said that he had no opportunity to appeal from the letter of trespass he had received from the Town Clerk and that he requested that Town Counsel be assigned to represent him in the matter, including litigation if necessary. Mr. King stated that Mr. McCann had caused disturbances in his office. There was a discussion about the nature of Mr. McCann's interaction with various town offices. Various accounts were given and debated. Mr. Kahn stated that Town Counsel was not available to represent individuals in complaints against town officials. He said that the Selectmen did not have the authority to employ Town Counsel to represent Mr. McCann. Mr. Kahn urged all parties who might have future objections to Mr. McCann's manner of presenting requests for information to document them thoroughly.

MOTION:

Moved by Mr. Kahn, seconded by Ms. Tolman, to deny Mr. McCann's request for the reasons stated. The motion carried.

Ms. Mulvey asked if there was any possibility of mediation of the request. Lt. McCarthy stated that District Court has a mediation program.

MOTION:

Mr. Sisitsky suggested that the Board of Selectmen issue a formal statement ensuring the safety of all town employees. No second.

TOWN MANAGER'S REPORT

Senator Markey's office has invited the Board to a discussion on the Social Security system. Mr. Marcoux thanked the Department of Public Works for their effort during recent ice storms. Mr. Petrini asked Mr. Marcoux the status of the New England Sand and Gravel Agreement. Mr. Petrini asked that the item be placed on the agenda for next week.

SELECTMAN REPORTS

The Board of Selectmen has signed a contract with Mark Rees. He will become the Acting Town Manager as of February 1, 1999 and will be compensated at the rate of pay received by Mr. Marcoux.

Ms. Mulvey reported that there was a local meeting of the MPO. The state has supplemented the town's dwindling funds. Ms. Mulvey attended Representative Stasik's seminar on the downtown and complimented the Selectmen on their revitalization efforts.

Ms. Mulvey reported she had received a call and was invited to a seminar to present the town's alcohol policy.

Ms. Tolman reported that the Framingham received accolades about Art on the Commons. Mr. Kahn discussed the Mass Municipal Seminar on Public Hearings. He asked the Chair to schedule the topic during a future agenda.

Mr. Kahn asked for a report on the sub-committee who met with Mr. Bikofsky. Mr. Kahn noted that Town Counsel was still employed and his hourly rate had not been addressed.

Mr. Kahn asked about Polly Esta's funds for a charity event. Lt. McCarthy stated that Polly Esta's has not been open for several weeks. Mr. Marcoux was asked to have Town Counsel intercede in this process. Town counsel was instructed to follow up and report to the Board as to appropriate measures for the Selectmen to take to revoke Polly Esta's license.

Ms. Tolman asked Ms. McCarthy on the status of Pentamation and whether the town was purchasing a new system. Mr. Marcoux reported that Ms. McCarthy was on sick leave.

METROWEST MEDICAL - COLUMBIA/TENET OUTSTANDING ISSUES

Mr. Marcoux stated that Town Counsel will report to the Board next week, however, a hearing on MetroWest is scheduled on January 26th. Mr. Kahn said that it was unclear whether or not Joyce James had received the Selectman's letter. He felt that a member of the Board to attend the hearing and speak. Mr. Kahn asked Mr. Bikofsky to opine on two paragraphs; one dealt with concerns that undertakings by the hospital are put in writing and enforceable by the Town of Framingham on behalf of its residents. Secondly, Mr. Kahn would like Town Counsel to address the terms in the sale agreement between Tenet and our local charity. Mr. Kahn expressed concern that it was likely that the town's participation could be lost within a short number of years. Mr. Petrini thought it was important to send a representative to the hearing. Both Mr. Petrini and Mr. Kahn will attend, if possible.

ACTION ITEMS:

The minutes of October 29, 1998 were approved by the Board.

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Kahn, to approve the minutes of October 29, 1998. So voted.

Mr. Kahn asked if the ad-hoc committee on land use had been convened. Ms. Mulvey was the Selectman's representative and will confer with the Boards.

MOTION:

Moved by Ms. Mulvey, seconded by Ms. Tolman to approve the minutes of November 4th. The motion carried.

FLEXIBLE SPENDING PLAN:

Mr. Marcoux recommended that the Town enter into the agreement for the Flexible Spending Plan.

MOTION:

Moved by Ms. Tolman to accept the Flexible Spending Plan for one year. Seconded by Mr. Kahn. Mr. Sisitsky requested that the employees be notified that life insurance is not part of the plan recommended by the town. Employees will be notified the plan is only for one year.

ETHICS POLICY:

Mr. Marcoux reviewed the questions raised by the Board about internal free tickets. He felt that just using the state ethics policy was not satisfactory.

DISCUSSION

Ms. Mulvey read Town Counsel's January 19th letter which stated that the statute would govern the conduct of all public officials. Town Counsel felt the ethics policy should Ms. Tolman stated that the ethics policy was a management issue and she would not be willing to support it as written. Mr. Sisitsky agreed and felt the policy was weak and inconsistent with town policy. Mr. Sisitsky thought the policy should be referred to the next Town Manager for further study. Mr. Kahn asked for clarification as to Ms. Tolman and Mr. Sisitsky's comments. Mr. Kahn asked if the subject should be left in the hands of the Town Manager. Ms. Tolman felt that the language in the ethics policy was too strong. She stated she was adding to Ms. Mulvey's comments. Mr. Kahn stated that he felt a local policy was necessary to call to the attention of town officials the need for ethics. Mr. Kahn also stated that there might be cases which would not be referred to the state board and held locally in personnel matters. Ms. Tolman noted that the Town Manager acted when the ethics policy was violated. Mr. Sisitsky requested that the question be moved.

MOTION:

Moved by Ms. Mulvey, seconded by Ms. Tolman, that the Board of Selectmen continue to regulate its conduct under Mass General Laws, Chapter 268A, Public Ethics Law, and not adopt the draft policy due to the specific recommendation made by Town Counsel. As an amendment, the draft policy may be referred to the new Town Manager for his review. Four in favor, Mr. Kahn opposed.

USE & OCCUPANCY AGREEMENT - MERIDIAN PLACE:

Mr. Marco noted that the appropriate insurance qualification was inserted in the occupancy agreement. Mr. Petrini asked that the condo trustees obtain a certificate of insurance naming the town as licenser. Mr. Kahn felt the appropriate language was clear. Mr. Petrini asked the Board to approve the agreement subject to the addition of one sentence.

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Kahn and so voted to approve the use and occupancy agreement for Meridian Place.

REQUEST TO WAIVE FEE - TERCENTENNIAL CELEBRATION - FEBRUARY 26, 1999:

The Tercentennial Commission is planning to hold a Las Vegas Night on Friday, February 26, 1999. The Commission has requested that the fee be waived.

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Sisitsky, to approve the request of the Tercentennial Commission and waive the fee for the Las Vegas night. The motion carried.

GIFT OF LAND - OVERLOOK DRIVE:

This item was withdrawn.

NEW BUSINESS

Mr. Kahn raised the issue of the Bowditch Field soccer agreement. He reported that Mr. Bikofsky has received a copy of the license agreement but has not rendered an opinion. Mr. Kahn pointed out legal issues as to the authority of the Park and Recreation Board entering into a contract without Town Meeting approval. Mr. Petrini felt that the lease was an example of appropriate management by a department head. Mr. Kahn thought the handling of this matter was a inappropriate and the department head went ahead without the permission of the manager. Mr. Marcoux felt that the Selectmen should review any final agreement. Town Counsel ruled that the Commission did have the authority to enter into an agreement. Ms. Tolman asked why the issue was raised again. Ms. Mulvey thought the commissioner's had the authority to sign the agreement under the Town Manager Act. Mr. Kahn stated that Town Counsel did not pass on the appropriateness of the contract, only whether the Park Commissioner's had the right to enter into the agreement. Mr. Kahn pointed out that an insurance agreement was not included and the agreement as proposed, was less protective to the town then the original Meridian Place agreement which the Board rejected. Secondly, Mr. Kahn noted that this agreement calls for the acquisition by the Park and Recreation Department of items of substantial value. He went on to say that substantial funds are to be expended without compliance with the public bidding process and without approval of Town Meeting. Mr. Kahn felt way in which the deal was done should comply with the municipal finance act, and Town Meeting has a say in these matters. Ms. Tolman thought that if the contract was indeed flawed, the commissioners should sit with Town Counsel and work out the details of the contract before appearing in front of the Selectmen and Town Meeting. Mr. Sisitsky agreed that Town Counsel should address Mr. Kahn's questions so there would be no need for a future agenda item.

MOTION:

Moved by Mr. Kahn, seconded by Ms. Tolman, to forward Mr. Kahn's memo to Town Counsel, with a copy to Mr. Merusi and the Commissioners and that Mr. Bikofsky be asked to address the issues raised and meet as appropriate with Mr. Merusi, the commissioners and Mr. Kahn to try and resolve the issue internally. If there is a need to come before the Selectmen and address policy issues, this can be done at a future meeting.

Moved by Ms. Mulvey, seconded by Mr. Sisitsky, to adjourn at 10:10 p.m..


VALERIE W. MULVEY, CLERK