

SELECTMAN'S MEETING
JANUARY 28, 1999

ATTENDANCE: Christopher J. Petrini, 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, rose to praise Mr. Marcoux for his contributions to Framingham over the past three years. Richard Paul, Chairman, MetroWest Tunnel Working Group, spoke to the Board about the New England Sand and Gravel MOU. He requested that approval be tabled until all relevant documents have been received. Mr. Petrini asked Mr. Paul if the Board would like the MWRA Working Group to take a vote on the matter. The Working Group will be meeting on February 17th. Mr. Paul said the position of the group was stated clearly in a letter of April 2nd and conveyed to the Board on April 6th. Mr. Sisitsky asked for clarification. Was the agreement the Working Group approved the one that Mr. Dowd and Mr. Bikofsky have been reviewing? Mr. Paul stated that, with the exception of several clauses, the agreement was the same. Mr. Sisitsky felt the topic was frustrating. He would like the language finalized between the Working Group, Town Counsel, and Mr. Dowd. Mr. Petrini asked Mr. Paul to try and call a meeting prior to February 17th to bring closure to the matter.

MOTION - N.E. SAND AND GRAVEL MOU:

Moved by Ms. Mulvey, seconded by Mr. Kahn, to table approval of the New England Sand and Gravel MOU. So voted.

HOSPITAL SALE - TENET

Mr. Petrini reported that the Selectmen have been working actively on the establishment of the Foundation and the hospital sale. The Board's involvement with the sale began last April. In November, the Board submitted a letter stating that they supported the sale, however the issues of free care and reporting methods remained areas of concern. The Selectmen have recently received a summary memorandum, which Mr. Petrini believes satisfies the concerns raised by the Board.

The Selectmen requested a specific dollar amount allotted for free care to the indigent. Mr. Petrini stated that Tenet will agree to provide the level of free care that Columbia currently provides. Mr. Petrini reviewed the determination of need filings which also address the issue of indigent care. The license to Tenet references free care consistent with the indigent care provision. Based on his review of the documents, Mr. Petrini is comfortable with the free care provision. A second issue raised in the January 14th letter, states that Tenet will attend regular meetings of the Natick & Framingham Boards of Selectmen, and adhere to all conditions outlined in the determination of need memorandum. Based on his review, Mr. Petrini recommended that the Board send a letter to the Public Health Commission, supporting the sale.

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Mulvey, that the Board of Selectmen send a follow-up letter to the Public Health Council clarifying the Board's position in light of additional information received since our last letter. Secondly, the motion stated that based upon additional information received and reviewed after our January 14th meeting (including the Staff Summary prepared by the Department of Public Health and the attached agreement with the MetroWest Health Care Coalition), and based upon further review of the DON Application filed by Tenet with the Public Health Council and related sale documents, the Board is satisfied that the issues of free care and community reporting are addressed adequately in Tenet's DON application and the various sale documents and agreements currently presented, and therefore offer its support of the proposed sale free of the qualifications set forth in the January 15, 1999 letter. The motion carried unanimously.

Ms. Mulvey read a letter received by Representative Stefanini asking the Board to endorse the sale of the hospital to Tenet. Mr. Kahn reported that he had just received a letter from Mr. Bradley, Tenet Health, commending the Board on their approval of the sale. Mr. Kahn indicated some surprise at being commended before a vote was even taken.

Jim Divver, a representative of the MetroWest Partner Board, stated that he thought the move was appropriate. He stated that the Board did have a dollar amount for indigent care, 2.7% of gross revenue. Mr. Divver felt that Tenet was a step above Columbia and thought the deal was a good one. He supported the motion.

U.S. FISH & WILDLIFE - BUD OLIVEIRA, REFUGE MANAGER:

Bud Oliveira, Refuge Manager, came before the Selectmen to update them on a plan to develop a Comprehensive Conservation Plan for Great Meadows National Wildlife Refuge Complex. This plan will be a practical guide for managing the refuge and protecting wildlife habitat over the next ten to fifteen years. Local towns serviced by this proposal are Sudbury, Lincoln, and Wayland. Mr. Oliveira was here tonight to solicit support from the local Board. There is now one wildlife refuge in every state in the union. The mission is to conserve, protect, and enhance fish and wildlife populations and their habitats for the continuing benefit of people. The U.S. Fish and Wildlife Agency is charged with putting together comprehensive plans for conservation. The planning process will include compiling existing information, identifying resource goals and objectives, identify issues, concerns and opportunities, etc. The process will take approximately two years.

Mr. Kahn asked what the relationship between the presenters and local conservation commissions. Mr. Oliveira stated that his agency worked in concert with all local conservation agencies. Mr. Kahn asked if Federal land being dealt with was subject to local and state regulation. He was told that only when there is a conflict would Federal law take precedence. Mr. Sisitsky asked if formal action was needed. Mr. Oliveira stated that his visit was a courtesy to all communities and for the solicitation of input from each community. A public meeting will be held in Sudbury on March 4th. Audience participation occurred with Mr. O'Neil asking if white tail deer were part of the project. The Board was asked to inform the Conservation Commission. Ms. Mulvey asked for a notice of the hearing.

VERA'S FOODS, REQUEST FOR BEER & WINE LICENSE:

John DelPrete, Jr., representing Moneer Guirguis, came before the Selectmen to request a beer and wine license at 855 Worcester Road, Trolley Square Mall. Mr. Guirguis, is the owner of Makaris Foods on Hamilton Street, and has a beer and wine license at this location. Mr. DelPrete presented a petition with approximately 775 signatures in favor of the application. Mr. Guirguis provides a take-out deli service and has experience with alcohol service. All service staff will receive appropriate training. No expansion of the store is anticipated. Ms. Mulvey asked if the elementary school across the street was considered an abutter. Mr. DelPrete stated that he sent notice and received no comments. Mr. Kahn stated he would abstain as a close family friend was an employee of the business. Ms. Mulvey felt public convenience would be served. Mr. Sisitsky asked where on the floor plan was the market and what percentage of the market would be devoted to the sale of beer and wine. Mr. Sisitsky wanted the emphasis to remain on food service. Mr. Sisitsky would like a condition added that only 15% of floor space will be used for beer. Public comment was taken recommending the petitioner.

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Sisitsky, to approve the petitioner's request with the condition that the percentage of sale for beer and wine space remain at 15%. The motion carried with Mr. Kahn abstaining.

CABLEVISION - CONTRACT REVIEW - JIM DIVVER AND TOM LANDRY:

Mr. Divver, Cable Committee Chairman, along with Tom Landry, came before the Selectmen to report on the status of negotiations with Cablevision for an extension of their license. The Committee expects that it will be able to provide to the Board a final form document, reviewed and approved by this Committee, by February 26. A major thrust of negotiations has been a contract issue, specifically relative to the liquidated damages clause. Mr. Divver asked how long the Board would need the materials for review. The hope was to settle the contract by the end of February. Mr. Petrini asked how long the conditional extension was necessary. Mr. Petrini suggested that the license be granted until March 31st.

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Sisitsky, the grant the request of the Cable Advisory Committee to issue a short term bridge renewal license to Cablevision commencing on January 28, 1999 and ending on March 31, 1999. The motion carried.

APPLEBEE'S - PLEDGE OF STOCK

Barry Gerstein, representing Applebee's of New England, came before the Board requesting a pledge of stock. Mr. Gerstein stated that the request was only for a pledge of stock, not a pledge of license. Mr. Gerstein went on to explain the nature of the transaction. Mr. Kahn asked what the consequences would be if the borrower defaulted on the loan. Mr. Gerstein stated that he decided to make the process public but would come before the Board if there was a default. If the stock of Applebee's was insufficient to cover the default, he would reappear. Mr. Kahn suggested that a clarifying note be put in the approval that if a default.

MOTION:

Moved by Mr. Sisitsky to approve the petitioner's request without any restrictions. Seconded by Ms. Mulvey and so voted.

BUGABOO CREEK - CHANGE OF MANAGER, NEW OFFICERS & DIRECTORS:

Mr. Gerstein, representing Bugaboo Creek, came before the Board to request a change of manager from James Kuhn to Dennis Budwey. Mr. Budwey's CORI indicated one court appearance. Mr. Budwey has been trained in alcohol service and has twenty years of experience. Mr. Petrini asked Mr. Budwey about his CORI record, which indicated that he operated after a suspended license. The case was subsequently dismissed.

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Mulvey, to approve the petitioner's request. So voted.

NEW OFFICERS AND DIRECTORS:

The new Board of Directors shall consist of one member, Philip J. Hickey, Jr. Mr. Gerstein has submitted the petition to bring the corporation up to speed in Massachusetts.

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Mulvey to approve the petitioner's request. So voted.

BERTUCCI - GRANT COLE, CHANGE OF MANAGER:

Mr. Sisitsky asked if Mr. Cole was TIPS certified. Mr. Cole will assure that all employees will have appropriate training.

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Sisitsky to approve the petitioner's request.

POLLY ESTA'S - REVIEW STATUS OF LIQUOR LICENSE

The Selectmen reviewed a memorandum from Lt. McCarthy, indicating that Polly Esta's has been closed since New Years Eve of 1998 and does not plan to re-open. Management of Polly Esta's stated that if there had been an under 21 night, Polly Esta's would comply with the agreement. Attorney Bikofsky sent a copy of a memo to the Selectmen reporting that Polly Esta's lease has not been renewed and management is looking for a new location. Mr. Sisitsky asked if the Selectmen had authority to take back the license. Mr. Petrini thought that the Board did, but would like an opinion from Town Counsel.

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Sisitsky, to ask for Town Counsel's opinion on how to retrieve the license and the method necessary to hold an appropriate hearing. The motion carried.

TOWN MANAGER REPORT

Mr. Marcoux announced that a \$225,000 Police Grant has been received. This will allow for three officers. Another grant for \$5000 was received for a scanner inspector.

Mr. Marcoux has been made aware that the 9/90 sewer project will be over budget. There is approximately \$38,000 in the budget remaining for construction work. Contract work has been done by the construction company without waiting for change orders. Both the CFO and Planning Director have met and will be drafting a document to present outstanding amounts to the town. The developer has the responsibility to absorb some of the overage. Mr. Petrini asked if the uncompleted change over work will effect the opening of the sewer line. It will. Mr. Kahn asked who was in charge of the project as some fundamental permits do not seem to in place. Mr. Marcoux stated that Mr. Skinner has been in charge and received no change orders. Mr. Kahn asked about the change order process. Mr. Sisitsky stated that the Town Engineer could authorize the contractor to do the work subject to schedule completion. Mr. Marcoux has spoken with the engineering firm who did not indicate any possibility of being over budget. Mr. Sisitsky said that the budget was very tight and thought there was no contingency left in the budget. Mr. Petrini stated that New England Development should be picking up some of the overage. A report will be presented to the Selectmen on February 11th. A representative from Haley and Ward should be present at that time.

Mr. Marcoux took an opportunity to say good-bye to the residents of Framingham and Division Managers as well as Selectmen who helped his achieve his goals. Mr. Marcoux outlined his accomplishments with regard to reorganization of the structure of the town. He stated that he wished Mr. Rees well during his transition period. Mr. Petrini thanked Mr. Marcoux for his efforts on behalf of the town. Mr. Franchi stated that Mr. Marcoux will be fondly remembered.

ZBA APPOINTMENT

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Sisitsky, to table appointment of a ZBA member pending attendance of a full Board. So voted unanimously.

ACTION ITEMS

The minutes of November 4, 1998 were approved by the Board.

MOTION:

Moved by Ms. Mulvey, seconded by Mr. Sisitsky, to approve the minutes of November 4, 1998. So voted.

The minutes of November 12, 1998 were approved by the Board.

MOTION:

Moved by MS. Mulvey, seconded by Mr. Sisitsky., to approve the minutes of November 12, 1998.

New England Sand and Gravel - see above

Moved by Ms. Mulvey, seconded by Mr. Sisitsky to moved into Executive Session to discuss Town Counsel's contract. A roll call vote was taken with all Selectmen voting in the affirmative.

Valerie W. Mulvey
VALERIE W. MULVEY, CLERK