

SELECTMAN'S MEETING  
FEBRUARY 25, 1999

Attendance: Christopher J. Petrini, Joyce A. Tolman, John M. Kahn and Charles J. Sisitsky.

Mr. Kahn noted that Ms. Mulvey was not present due to the death of her father. The Board offered condolences to Valerie and her family.

Mr. Petrini announced Las Vegas night to be held in Nevins Hall, February 26th at 7:00 p.m.

Mr. Skinner, DPW, updated the Board on operations of the DPW during today's snowstorm. There are currently thirty pieces of equipment have been working and operations are moving along nicely.

Mr. Petrini called the meeting to order at 7:10 p.m.

Ms. Tolman, on a point of personal privilege, announced that she had been unable to attend the past several Selectman's Meetings due to her battle with breast cancer. She reported that she is doing well.

CONFERENCE - CONSERVATION COMMISSION - TOWN KENNEL -Conservation

Commissioners, Leslee Willetts, Michael Halpin, Robert Merriam, Robert Venne, and Carolyn Fletcher were present as well as Michael Grilli, Permanent Building Committee Chair, Chief Larrabee, and Beth Bannon. Mr. Rees, outlined the issues before the Board this evening. The existing town kennel is in disrepair and Town Meeting authorized \$177,000 for it's repair. Mr. Kahn explained that the land was acquired under a federal grant. The Macomber Estate was appraised and one acre was set aside for the kennel. The state requested a separate appraisal for the kennel. The entire parcel of land was acquired for conservation purposes and is under the jurisdiction of the Conservation Commission. Tonight's conference is being held in the hope that an arrangement can be made with the Commission so as to reconstruct the kennel without enlarging it and provide public facilities as required by the state. Ms. Bannon elaborated, stating there were two documents under discussion. The Conservation Commission's documents indicate that no alteration to the premises can occur. Ms. Bannon stated that the footprint of the building simply mean that the size of the structure should remain with the same number of feet. Joel Lerner, Executive Office of Environmental Affairs, wrote in support of the renovations. Ms. Bannon felt the problem lay with the Conservation Commission's unwillingness to move forward with the project. Mr. Petrini said that the state agreed that the same footprint and no enlargement of the facility complies with the grant from the state. Mr. Petrini also noted that the Board of Selectmen supported the renovation.

Mr. Sisitsky emphasized the need for a new kennel and felt it was necessary to replace it in the near future. He noted that the Permanent Building Committee developed plans for a new kennel within the acre of land.

Ms. Willetts, Conservation Commission Chair, had no particular comments relative to the discussion. She stated that she had reported the vote the Commission on December 16th and had not heard about plans to relocate the kennel.

Mr. Grilli, Permanent Building Committee Chair, said that an architect was retained, a site plan was presented to the Conservation Commission showing a similar footprint. The Conservation Commission was asked to join the Selectmen to request a waiver from the state. Mr. Grilli stated that the kennel was in deplorable condition and the proposal to build a new facility nearby would enhance the area. Mr. Grilli would like the Selectmen give the PBC some direction.

Ms. Tolman asked for clarification on several issues. She stated that she seemed to be hearing that the Conservation Commission had a wish for the kennel to be relocated. She also wondered if the kennel was reconfigured if a stricter policy would be in order.

Ms. Willetts's said that, if the kennel remained on the Macomber property, the Commission would put together a stronger property management program. Additionally, there were concerns that Framingham was housing dogs from other communities.

Chief Larrabee rose to speak. He stated that the function of kennel management was given to the Board of Selectmen and he suggested that benign neglect had occurred. In 1993, oversight of the kennel was transferred to the Police Department's direction and the site was maintained by personnel from correction's facilities. Town of Hopkinton employees plowed the driveway and helped maintain the site. Ms. Sheehan, Animal Control Officer, took in dogs from Hopkinton in trade since Town of Hopkinton personnel worked on the property. Chief Larrabee again noted that local government authorities neglected this property. He stated that Framingham has a strict leash law which forces managing the kennel. Mr. Petrini asked if the Chief recommended that the Conservation Commission accept the building. The Chief agreed, noting there was no money to regionalize the kennel.

Mr. Venne, Conservation Commissioner, stated that he would be willing to vote to come to an agreement to rebuild the kennel. He hoped the Commission would vote favorably for the plan. Ms. Bannon stated that there have been no problems with the kennel and having someone on the premises would provide safety in the area. All demands would be addressed in the new plan. Ms. Bannon stated that the plan for the kennel was made clear to the state and the location can be on the one acre, not necessarily on the exact site.

Ms. Willetts asked for this promise from the state in writing. She felt that the same footprint meant just that, not another location. Mr. Kahn stated that the current Board has proven to be a strong supporter of conservation and was not trying to undermine the goals of the Conservation Commission. He wondered if the Commission would entertain renovation of the kennel subject to the terms of Mr. Lerner's letter and the approval of the plans by the Commission. Ms. Tolman asked who had jurisdiction to move the kennel. She was told that the Conservation Commission did. Mr. Kahn agreed, but felt that the land was theirs by oversight. Ms. Tolman asked why the site was being moved. Mr. Grilli stated that it was less expensive to move the site then rebuild on the present location. Ms. Tolman asked what the objection to the move was. Ms. Willetts's concern still involved changing the footprint.

Mr. Merriam stated that the original plan was presented as an expansion. Another concern he expressed was compatibility with the preservation of open space. Additionally, the entire kennel area falls within the Rivers and Wetlands Act Law.

Mr. Halpin asked if the use of the kennel was inconsistent with conservation purposes. Ms. Fletcher stated that she was uncomfortable weakening agreements that were made in the past. She felt that footprint meant the same place and with the same configuration. Mr. Grilli stated he would stake out the property and comply with the concerns of the Conservation Commission. Mr. Sisitsky did not understand what the problem was with the Commission and why they did not want to move ahead. Mr. Petrini agreed and felt that the motion could be properly phrased to build in protections. Mr. Halpin noted that plans would come before the Commission and he was willing to sponsor a motion

**MOTION:**

Moved by Mr. Halpin to give the Selectmen the necessary tools. Seconded by Mr. Venne. (Basically, the Conservation Commission would agree to continue to review plans and do what is necessary to get a new kennel.) No vote taken.

**DISCUSSION:**

Acquiescence on the word alteration of premises is necessary from the Commission. Mr. Kahn noted that approval of plans would still be under the jurisdiction of the Conservation Commission. Ms. Willetts's would like a member of the commission to be involved in any planning for the kennel.

**MOTION:**

Moved by Mr. Halpin that the Conservation Commission issue a statement that they wished the Board of Selectmen to go forward and seek all necessary plans for the kennel. No second.

**MOTION:**

Moved by Mr. Merriam that the Conservation Commission vote to encourage the Permanent Building Committee to file a notice of intent and determination of applicability before the Conservation Commission for the kennel property. Seconded by Ms. Fletcher. Two in favor, three opposed. Motion failed.

Mr. Venne agreed to move forward and agree with the Selectmen

**MOTION:**

Moved by Mr. Venne, seconded by Mr. Halpin, that the Conservation Commission concur with the Board of Selectmen on proceeding to review whatever proposals are brought forth by the Permanent Building Committee.

**DISCUSSION:**

Mr. Petrini thought the issue with the kennel, vis-à-vis the Conservation Commission, involved effectively removing the requirement that there be no alteration of the footprint at the site. The Commission should agree basically not to prohibit any change to the facility whatsoever. The intent of the motion was to encourage forward movement.

Mr. Kahn suggested that the motion should be restated as follows:

The Conservation Commission votes approval of reconstruction of the kennel subject to compliance with all previous agreements, subject to the January 25, 1999 letter from Mr. Lerner, and subject to approval of location and nature of work by the Commission. Additionally, the Conservation Commission will provide a commissioner to work with the Permanent Building Committee the development of these plans. Mr. Venne accepted the amendment. Mr. Halpin seconded the motion which carried unanimously.

**PUBLIC PARTICIPATION:**

Robert Edwards, addressed the Selectmen with respect to the School Committee budget. He was particularly concerned about override possibilities. Mr. O'Neil spoke about the resistance of the town look for other land for the kennel as the Conservation Commission appears to be extremely resistant.

**HEARING - FRATELLI ITALIAN EATERY - 855 WORCESTER ROAD - REQUEST FOR NEW WINE & MALT RESTAURANT LICENSE:**

John DelPrete, Esq., representing Fratelli's Italian Eatery, came before the Board to request a new wine and malt liquor license at his Worcester Road establishment. Mr. DelPrete presented an affidavit of notice, petition and menus to the Board. The eatery is for moderate priced Italian food. Mr. Isaac has been familiar with the management and service of alcohol and will become TIPS certified to comply with the requirements of the Selectmen. Mr. Kahn asked Mr. DelPrete if there was a license available. Mr. Rees indicated that this would be the last beer and wine pouring license available. Ms. Tolman asked for clarification on Mr. Isaac's CORI report. Mr. Sisitsky asked for clarification on the transfer from Ben's Deli and if both Isaac Brothers would be officers and owners of the company. If so, the note should be changed to reflect actual ownership. Mr. Kahn questioned whether the Italian Eatery complied with the town's written liquor policy regarding criteria for the Board to issue a license. Mr. DelPrete said the restaurant was a family type and would cater to the neighbors. Mr. Kahn asked if there would music offered. Mr. Isaac thought this might be a possibility. Mr. DelPrete said that restaurant was a small family type and not a chain. Quality food in a unique setting will be offered to the public.

**MOTION:**

Moved by Mr. Kahn, seconded by Mr. Sisitsky, to table approval of the petitioner's request pending receipt of more information. So voted.

**CONFERENCE - PREPARATION OF INTERVIEWS FOR TOWN MANAGER:**

At the Selectmen's request, Don McCallion, School Department Human Resources Director, came before the Board with some suggestions as to how they might proceed in their search for a Town Manager. Mr. Petrini met with Mr. McCallion in order to facilitate the final interview process. Mr. McCallion reported that the Search Committee was almost ready to send candidates to the Selectmen. He suggested that written letters of recommendation be obtained from all candidates. Mr. McCallion thought that each candidate should receive an hour long interview. The Board will need to identify the types and areas to be discussed during the interview process. He suggested that five or six standard questions were appropriate and that the format be thoroughly explained to each applicant. Mr. McCallion also suggested that site visits be conducted after the interview process in order to reduce the necessity for travel. He thought the Selectmen should set a date for the interviews and start working on a contract and salary requirements.

Mr. Petrini proposed that the finalists be interviewed on March 10th 7:30-10:30 p.m. On March 11th, two candidates could be interviewed as part of the Selectman's Meeting. After the 11th, site visits could be conducted between March 12th and March 20th with written reports submitted by March 22nd. On March 25th, the selection will be made. Mr. Petrini asked if Mr. McCallion would continue to work with the Board. He would. Mr. Petrini asked if the questions would be shared with the candidates. Mr. McCallion did not suggest this. Mr. Petrini noted that the Search Committee was almost out of money. Mr. Petrini asked for a budget help from Mr. McCallion. The final figures will be presented to the Board on March 11th.

Ms. Tolman asked Mr. McCallion if references could be called. He stated that one reference for each of the seven candidates has been contacted. Further reference checks need to be done in more depth. A criminal records check might be undertaken by Chief Larrabee.

Mr. Kahn asked if there was any way the formulation of questions could be eliminated as part of the public record. Mr. McCallion thought that the Board could draft questions privately, but would check with Town Counsel to determine if the questions could be formulated in Executive Session. Mr. Petrini suggested scheduling an Executive Session on March 4th at 7:00 p.m. Mr. Kahn asked if Mr. McCallion would be willing to review draft questions. Mr. Kahn asked if it was appropriate to ask a candidate for a memorandum to demonstrate his ability to identify issues and formulate facts. Mr. McCallion suggested that the candidates come in early to formulate answers. Mr. Kahn asked how the Board should proceed to narrow down the field. Mr. McCallion suggested that the Board remain with three to five candidates prior to the site visits. With regard to the final selection, Mr. Kahn wondered if the process would end if one candidate got four votes. Mr. Kahn asked for direction as to a fair way to approach a final vote. Mr. Sisitsky stated that he did not think it was necessary to nominate more than one name. Mr. Petrini asked that Town Counsel review and prepare a draft contract. Mr. McCallion recommended having the draft copy of the contract sent to the finalists prior to a vote.

Mr. Sisitsky asked when the candidates should be approached with the residency requirement. Mr. Petrini felt the issue of a waiver for the residency requirement should come up during the interview process.

**MOTION:**

Moved by Mr. Sisitsky, seconded by Mr. Kahn, to have Town Counsel present a draft contract to the Selectmen by March 4th. So voted.

Mr. Kahn said that he was in receipt of a letter from the Personnel Board requesting that the candidates be referred to them for a review of minimum qualifications. Ms. Tolman expressed surprise about receiving a letter of this nature. Ms. Bannon stated that the Personnel Board's policy states that they review all the candidates. Mr. Sisitsky felt the request was a formality.

MOTION:

Moved by Mr. Kahn, seconded by Mr. Sisitsky, to have two written references for each candidate. So voted.

HEARING - EDGES, 86 KENDALL AVENUE, REQUEST FOR A WINE AND MALT PACKAGE STORE:

Attorney Amy Vesely, representing her client Shawn Spillman, came before the Board to request a new wine and malt package store license at the Kendall Avenue location. Ms. Vesely stated that the building was purchased in 1996 from Mr. Pedrante. A transfer was requested from Mr. Pedrante, however the license expired. The character and existing store will not be changed. There have been no complaints about selling alcohol at the site. Any complaints received were due to delivery trucks in the neighborhood. The problem has since subsided. Ms. Vesely noted that the store was small, family operated and not a large chain. Ms. Tolman asked for clarification as to whether there had been continuous sale of liquor. Mr. Spillman said there has been no sale since January 1, 1999. Mr. Spillman would be the operator of the license. Ms. Tolman asked if there were financial difficulties on the site. Mr. Spillman stated that his tenant gave up the lease and business. There are no outstanding debts owed to the town. Mr. Sisitsky asked about the possibility of delivering beer and wine and stated that he had a problem with delivering of alcoholic beverages. He felt that control issues might arise. Mr. Kahn shared Mr. Sisitsky's concerns and would like to review the situation. Mr. Vertie, an abutter, expressed concerns about the nature of the proposals. He noted that the neighborhood was not being properly served by this establishment. Neighbors rose to speak against the proposal. Ms. Tolman stated that she did not see a demonstration of public need and convenience.

MOTION:

Moved by Ms. Tolman, seconded by Mr. Kahn, to deny petitioner's request. The motion carried.

HEARING - RUBY TUESDAY, TRANSFER OF LIQUOR LICENSE & CHANGE OF MANAGER:

Tom Bard, proposed manager and franchisee for Ruby Tuesday's Restaurant, came before the Selectmen to request a transfer of the liquor license and a change of manager. Mr. Bard is TPS certified. Mr. Sisitsky asked if the petitioner had his ID. To date, he does not. Mr. Petrini noted that CORI issues existed and asked for clarification from Lt. McCarthy.

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Tolman, to approve the transfer of the liquor license to RT Boston Franchise, LLC, d/b/a Ruby Tuesday's. So voted.

MOTION:

Moved by Ms. Tolman seconded by Mr. Sisitsky to table approval of the change of manager to Thomas Bard, until mid-March when all questions are answered. So voted.

HEARING - PREMIUM THEATER OF FRAMINGHAM, INC. 22 FLUTIE PASS, REQUEST FOR BEER & WINE LICENSE:

Peter Barbieri, representing General Cinema Corporation, came before the Board to request a beer and wine license for his client. Also present was Lanark Thornton, General Manager, and representatives of General Cinema Corporation. Mr. Barbieri presented background information about the cinema and its future plans to develop a restaurant facility. Tonight's proposal included the request for one new theater as well as a cafe. Proposed seating in the new restaurant would be for 100 patrons. Approval has been received from the Planning Board relative to adding 137 parking spaces on the site. Stadium seating will be incorporated into the plan. Conservation Commission approval has been issued. The Premium Cinema allows for upscale amenities, a full service cafe, coat check, upgraded seating, etc. Reservations will be available. A visual and a video were presented to the Selectmen. Ms. Tolman was not sure of the benefit of this concept to be derived by the community and was not in favor of the proposal. Mr. Barbieri said that his client had moderated the proposal and reduced the request to one theater. Mr. Sisitsky asked about supervision of under 21 patrons, specifically with phone reservations. Mr. Sisitsky asked if there was a limit as to how many drinks could be served during the film. Service is limited. Mr. Petrini thought the concept was unique as long as the parking issues were resolved. He felt the Board should encourage the corporate community. Mr. Kahn thought the public convenience might be better served if remaining licenses were applied to the downtown area. He asked if there was a bar in the complex. Mr. Barbieri said there was a small bar. Mr. Kahn was not prepared to vote on the request until he conferred with the Planning Board. Mr. Sisitsky did not see that public need or convenience was met.

Mr. Barbieri stated that the concept was similar to that provided by the former Monticello's. He also stated that the facility was upscale and would provide a unique service. Ms. Tolman agreed with Mr. Kahn and would like to encourage licenses for downtown sites. Mr. Barbieri suggested that he and his client might be interested in requesting a full alcohol license. Mr. Kahn requested a copy of the presentation to the Planning Board and verification of Premium Cinema's representation.

**MOTION:**

Moved by Mr. Kahn, seconded by Mr. Sisitsky, to table the petitioner's request for one month. So voted.

**REPORT - FY00 BUDGET, MARK REES, ACTING TOWN MANAGER & CFO:**

Mr. Rees included in his report, input from Division Managers with regard to the two options recommended by the CFO. Additionally, he provided different scenarios using the stabilization fund. The School Committee has not supported Mr. Rees' recommendations. The Finance Committee agreed to set up sub-committees to look at the different divisions and begin their overall review of the budget. Ms. Tolman stated that Public Safety was not under the same scrutiny as other departments, noting that the Police Department's budget figures were up 12.4%. Ms. Tolman asked if Mr. Rees could look at this budget with an eye to making reductions. Mr. Rees said that he understood public safety was a priority of the Board, however, reductions for additional services have been recommended. Mr. Rees stated that there was \$375,000 in the police budget for new cruisers. Historically, police overtime accounts have been under funded. Mr. Kahn asked who was responsible for negotiations with the School Committee and what role the Board of Selectmen might play in these negotiations. Mr. Rees stated that he preferred to have informal negotiations with the School Department. He went on to say that, if his recommendations were changed, he would like the support of the Selectmen. Mr. Kahn agreed. Ms. Tolman thought the Board should wait until the final figures were presented. Mr. Rees reported that the municipal side of town will need \$600,000. Mr. Petrini noted that the Selectmen had to make a decision as to how to handle policy issues. Mr. Rees suggested that the town look at health insurance, building projects, etc., when negotiating. Mr. Sisitsky thought it premature for the Selectmen to become involved. Mr. Kahn raised the issue of responses from Division Managers. He noted that the Inspectional Services Department identified the programs which would be impacted by budget cuts, however neither the Park Department nor the Fire Department responded adequately to the questions. Mr. Rees said he would request clearer responses. Mr. Petrini agreed with Ms. Tolman with regard to public safety departments and asked why some safety projects could not be capitalized. Mr. Rees stated that the town was behind the optimal schedule by ten vehicles per year. He recommended using the sale of tax liens for the purchase of cruisers.

**ACTION ITEMS:**

The minutes of December 3, 1998 open and Executive sessions were approved by the Board.

**MOTION:**

Moved by Mr. Tolman, seconded by Mr. Sisitsky, to approve the open session minutes of December 3, 1998. So voted.

**MOTION:**

Moved by Ms. Tolman, seconded by Mr. Sisitsky, to approve the Executive session minutes of December 3, 1998. So voted.

December 10, 1998 minutes.

**MOTION:**

Moved by Ms. Tolman, seconded by Mr. Sisitsky, to table approval of open session minutes of December 10, 1998. So voted.

**MOTION:**

Moved by Ms. Tolman, seconded by Mr. Sisitsky to approve the December 10, 1998 Executive session minutes. So voted.

The request of Elizabeth Fuller to be re-appointed as a Constable for a term of three years was approved by the Board.

**MOTION:**

Moved by Mr. Kahn, seconded by Mr. Sisitsky, to appoint Elizabeth Fuller as Constable for the Town of Framingham for a term of three years, to expire on February 25, 2001. The motion carried.

Position on Nuclear weapons: Mr. Lyons and Mrs. Robinson came before the Board to request that the Selectmen support the position on the ballot question regarding the abolition of nuclear weapons. Mr. Kahn asked Mr. King if a summary was necessary for the voters and if background information was needed. Mr. Sisitsky asked if it was legal or appropriate for the Board to take a position on a ballot question. With regard to the cost factor involved in placing the ballot question on the warrant, Mr. King noted that there is a cost involved in printing. Mr. Kahn was prepared to support the question.

MOTION:

Moved by Mr. Kahn, seconded by Ms. Tolman, that the Board supports the proposition set forth in the non binding resolution on nuclear weapons. Mr. Sisitsky requested verification that it was appropriate for the Selectmen to take a position on the article and amended the motion to state, provided that it was within the Board's legal authority to support the article. So voted.

Selection of Grant's Panel Candidates:

Moved by Mr. Kahn, seconded by Mr. Sisitsky to table this item for one week. So voted.

ACTING TOWN MANAGER'S REPORT:

Mr. Rees stated that he will submit an analysis of Town Counsel's billing rate at the next Board meeting.

Mr. Rees reported that the 9/90 physical project is almost completed. Contractors have submitted change orders which are far above the initial amount anticipated. Mr. Petrini requested an updated report with spread sheet, etc.

With regard to Computer Associates, the contract is enforceable. Mr. Kahn asked how the town planned to proceed to get the money. Mr. Rees will be meeting with all the parties next week. Mr. Rees indicated that he has held meetings on the Y2K issue. Mr. Rees stated that there have been no assurances from the utility companies to indicate if they are Y2K compliant. Mr. Kahn thought residents should be noticed about potential loss of services. Mr. Rees planned to address these issues.

Mr. Petrini asked Mr. Rees to reconvene negotiations with health providers. An audit was performed on these accounts and a meeting will be convened. Mr. Petrini asked if this might be a source of revenue.

Mr. Kahn raised the issue of the suit against the town by Chapel Hill Condos. He asked for more information from Town Counsel and suggested an Executive Session. Mr. Kahn asked for some response from the Public Works Board regarding abatements. Mr. Petrini noted that an amended complaint was filed.

SELECTMAN'S REPORTS:

Ms. Tolman reported that the Comprehensive Building Review Committee has met twice. She requested a member from the Historical Commission be appointed to the committee.

MOTION:

Moved by Ms. Tolman, seconded by Mr. Sisitsky, to ask the Historical Commission to appoint a designee to serve on the Building Review Committee and inform Tom Landry, the convener. The motion carried.

A motion was entertained to adjourn at 11:35 p.m.

  
VALERIE W. MULVEY, CLERK