

SELECTMAN'S MEETING
MARCH 25, 1999

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

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

PUBLIC PARTICIPATION:

Jim Dwyer, Town Moderator, rose to express his frustration, "because the authority under the Personnel By-law under which both by which both the Personnel Board and Board of Selectmen, by which they are bound, have been ignored to the detriment of the personnel process, the credibility of town government, and the just expectations of the citizens of Framingham." Mr. Dwyer stated that, he was further affected directly and his ability to function as the elected Town Moderator because, "it deters sincere candidates seeking and accepting appointments to the Personnel Board." He said, "you can not be unaware that the Personnel Board was by-passed in setting minimum entrance requirements for the Town Manager position in spite of Mr. Bikofsky's opinion which you sought and ignored." Mr. Dwyer said that, "Mr. Bikofsky's opinion, as to the role of the Personnel Board in the process, along with two radically conflicting sets of minimum entrance requirements were sent by your chair to each of the ten search committee members on November 3rd.....: Mr. Dwyer said, that due to the fact that there were different minimum job requirements were posted in different places, minority, female and disabled sectors of the population faced higher entrance requirements then informed through ads in newspapers and at career centers. He stated that process issues were serious and should be addressed. He went on the say that Article II, Section 1.1.2 of the town's by-laws indicate that the Selectmen, as part of their duties, must enforce these by-laws. Mr. Bograd, Search Committee Chair, addressed Mr. Dwyer's comments. He said that he felt, "the comments impugn the integrity of the Selectmen, the Director of Human Resources, the Search Committee, the Personnel Board, and the Personnel Department." Mr. Bograd said, "the process was very open. On a vote on October 29, 1998 the Selectmen, on the recommendation of the Director of Human Resources, approved the job qualifications including minimum entrance requirements. He stated that, "this was not a surprise; it's been documented in the newspapers, in open session, from November to today, from November until we made our report, every single thing that was done." Mr. Bograd noted that the Personnel Board did not raise any concerns until after the Search Committee's report and asked on their own to look at the minimum entrance requirements vis-à-vis the job description. "What they came up with, on a vote of four to nothing, was not only approving the minimum entrance requirements of the three candidates, but the Acting Director of Human Resources, Sheila Chamberlin, indicated to the people, Mr. Dwyer was in the room, that not only was the ad job qualifications covered by the candidates, the job qualifications that were posted were covered by the candidates." Mr. Bograd was disappointed by Mr. Dwyer's comments and asked why the issues were not addressed earlier in the search process. He felt that Mr. Dwyer should be bringing the town together and not coming in at the "13th hour" after the process is done to expresses concerns. Mr. Bograd felt the process was being politicized. Frank Reilly, Precinct 7, also rose to disagree with Mr. Dwyer. Mr. Petrini stated that he was saddened by both Mr. Dwyer's which he considered to be a political and divisive attempt to harm the town. Mr. Petrini stated that he was invited to a meeting of the Personnel Board to discuss inconsistencies that do exist between the Town Manager Act and various town by-laws. Mr. Petrini noted that the Personnel Board was involved in the process and unanimously approved the candidates as meeting minimum qualifications. He also stated that the job description was discussed publicly and qualifications were voted upon in public and with the professional recommendation of the Human Resources Director. Mr. Petrini stated that the Human Resources Director is the liaison of the Personnel Board, according the town by-laws. Mr. Petrini stated that the qualifications for the Town Manager were stricter then those for other employees and felt that political attempts had been made to discredit the process at the 11th hour.

Mr. Dwyer rose again to state that he was not discussing the Search Committee, but only the process used to establish minimum qualifications. This process he maintained was flawed. Mr. Sisitsky stated that the process was the most open we have had in this town and widely reported from the beginning. He said that if the Personnel Board felt slighted in any way they should look within and talk about their communications effort with their own professional staff. Mr. Sisitsky stated that he felt the 11th hour attempt to derail this process was totally irresponsible. He felt that Framingham desperately needed to have a full time Town Manager on board and to turn the clock back five months and start over would be totally irresponsible.

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Tolman, to note receipt of Mr. Dwyer's correspondence, take no action, and move on with the agenda. Three in favor, Mr. Kahn opposed.

Mr. Gerstein announced Temple Beth Am's breakfast on Sunday, March 28th. All candidates for election will be present to address the crowd.

Tom O'Neil, Precinct 8, rose to speak about a wireless communication proposed for mounting on a building at 600 Worcester Road. The request of the applicant was denied by the Building Commissioner. Mr. Sisitsky stated that Mr. O'Neil should place this topic on another agenda. Mr. O'Neil felt that no exemption should be allowed for this facility. He asked that the Selectmen suggest that the ZBA reconsider its vote. Mr. Kahn addressed the topic, stating that his colleagues had delayed an appointment of a member to the ZBA while reviewing attendance records. He felt that it was perfectly appropriate that this topic was raised before the Selectmen. Ms. Tolman suggested that Mr. O'Neil apply for a seat on the ZBA. With regard to the legality of the Board questioning a decision of the ZBA, she felt that Town Counsel might address this topic. Mr. Rees was asked to review the topic with Town Counsel for an opinion on this matter. Dave Hutchinson, Precinct 12, rose to speak about two candidates for the position of Selectman who raised the issue of race with regard to treatment of the minorities by the Framingham Police Department. T. Buff Franchi, Precinct 15, rose to compliment Mr. Dwyer's presentation. He asked the Board about Waverly Street construction projects. Mr. Reilly rose to speak about the water and sewer rates stating that the Board of Public Works will vote on the proposals on Monday, March 29th. Mr. Kahn asked if the proposals under consideration dealt with ways to appeal or ask for abatements. Mr. Reilly noted that the BPW will be dealing with the abatement process and the Commissioners will focus on this topic. Tom Blandford, candidate for Selectman, rose to address Dave Hutchinson's comments.

HEARING - KEN'S STEAK HOUSE, INC.. CHANGE OF MANAGER:

Jerome Bunk came before the Board requesting an appointment as Manager for Ken's Steak House. So voted.

MOTION:

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

CONFERENCE - MICHAEL FLYNN, REVALUATION UPDATE:

Mr. Flynn, Chief Assessor, came before the Board to provide them with a revaluation update. Included in the informational packet provided by Mr. Flynn was an FY2K revaluation timeline, the median price of a single family home, a four year history of median single family sale price, the median single family sale price north and south of Rt. 9, the median residential condominium sale price, and the 2nd request letter to Com/Ind/Apts under Ch. 59, Sec. 38D. Mr. Flynn reported that the median single family sale price for the first ten months of 1998 was \$186,000. North of Rt. 9 the median single family sale price for the first ten months of 1998 was \$189,900 and south of Rt. 9 the median price was \$175,500. The median residential condominium sale price in 1998 was \$80,400. Mr. Flynn also discussed a form sent to residents requesting information regarding the valuation of real property. The Assessors have changed the dates of various items on the revaluation timeline due to requests by the Department of Revenue. Mr. Flynn expects that everything will be completed on time. Median prices of homes in Framingham have increased with north side homes having a higher median sale price. Mr. Kahn asked what the significance of the figures were. Mr. Flynn stated that the make-up of the homes was significant. Mr. Kahn felt the numbers needed further research. Mr. Flynn will break down the figures at a later date. Ms. Tolman asked about the Senior Center exemption seminar. She noted that there was much confusion and fear among seniors relative to revaluation and suggested another television seminar for the public. Mr. Kahn noted that there will be another seminar held in Wayland on tax relief for seniors and agreed with Ms. Tolman that more seminars were necessary in Framingham. Mr. Sisitsky noted that the value of homes has changed 15-20%, however taxes will not necessarily increase due to this. Mr. Flynn gave an in-depth explanation as to how the tax levy was determined. Mr. Kahn raised the issue of the split tax rate. Mr. Flynn will present all options to tax payers at upcoming meetings. Ms. Tolman noted that the commercial tax base has been booming. Mr. Flynn did not anticipate that the commercial tax base would decrease.

EDIC - FY2000 COMMUNITY ECONOMIC DEVELOPMENT PLAN:

Chris Berglund, Acting Chair of the EDIC, along with Sam Swisher, Planning Department, presented a draft Community Economic Development Plan, prepared and adopted by the EDIC for FY2000. The EDIC is requesting a vote of approval of this document. Home rule petition legislation requires approval of a yearly plan by the Board of Selectmen. Projects the EDIC undertakes are as follows: provides guidance and support to the Downtown Manager, adopts and implements themes of the Downtown Framingham Economic Development Strategic Plan, assists neighborhoods in influencing economic development that is appropriate and responsive to neighborhood needs, works with the Assessor and Building Commissioner and other Town officials to encourage improvement of underdeveloped commercial and industrial properties, etc.

Ms. Tolman asked a question about the role the EDIC could play with regard to economic development. Mr. Berglund indicated that the EDIC will be investigating downtown development with the new Downtown Manager. Mr. Kahn expressed concern about the relationship of the EDIC with the Downtown Manager. He suggested that the Town Manager obtain a status report on how the new Downtown Manager is slotting into her job and what that job will look like. Mr. Kahn felt that the description of the Downtown Manager appears, in this document, to be an adjunct to the Planning Department. Mr. Berglund noted that the Downtown Manager will be working with downtown development, however, the Manager does report to the EDIC. Mr. Rees stated that in FY00, he would recommend that funding for the Downtown Manager be placed in the Planning Department's budget, however, from a policy perspective, will report to the EDIC.

MOTION:

Moved by Mr. Tolman, seconded by Mr. Kahn, to approve this article (EDIC) for the Town Meeting warrant. So voted.

Mr. McCann asked when the EDIC would have an office and when some of the recommended programs will go into effect. He expressed particular concerns about the anticipated use of the Civic Center. The Downtown Manager's permanent office has not been established.

HEARING - DUCA'S, INC.

Present this evening was Attorney Norris, Deputy McGuiggan, Mrs. Hutchinson, and Jack Walsh. Mr. Walsh stated that some issues regarding insufficient funds arose, but have been cleared up. In addition, Duca's entertainment license was not obtained. Mr. Mormino stated that third quarter taxes have not been paid. Of particular concern, is Duca's failure to comply with the requirements relative to the installation of a fire prevention system on the licensed premises, and failure to pay the license fee required by law. Deputy McGuiggan reported that a fire alarm system has yet to be installed and an order of notice was sent to Mr. Duca on March 15th. Mr. Duca plans to have the situation addressed within the week. He stated that he was unaware of the fact that he did not have an entertainment license. Mr. Duca said that the restaurant section of the business has been unsuccessful so the establishment now hopes to promote the entertainment side of the business.

Recommendation of Deputy McGuiggan-he would be willing to wait one week for the work to be completed. Mr. Sisitsky asked for clarification as to who has jurisdiction over the license. The Deputy felt that, with a life safety issue, the Fire Department could shut the operation down. Mr. Sisitsky expressed concern about the public safety issues. Mr. Kahn noted that Mr. Duca did not pay the bills for the fire alarm installation. Mr. Kahn agreed with Mr. Sisitsky about the code issues and felt that the public safety fire codes needed to be complied with. Ms. Tolman asked whether Mr. Duca agreed to a fire detail. He did. Deputy McGuiggan stated that a fire detail would be acceptable. Ms. Tolman asked about operation without an entertainment license. It was her understanding that the regular process was not being followed. Ms. Tolman asked if the entertainment would be stopped until the Board voted on the license. Mr. Duca was asked if he would stop the entertainment until the Board voted on the matter. He stated he would close the restaurant if the Board wished.

MOTION:

Moved by Mr. Sisitsky, to table action on Duca's entertainment permit until Monday, March 29th, see what progress is made with public safety items, discuss the subject again and schedule a public hearing on April 8th.

DISCUSSION:

Mr. Sisitsky was quite concerned with public safety issues and thought the Board might need to take some strict action in this regard. Mr. Sisitsky wondered if a public hearing should be scheduled two weeks from tonight to discuss the possibility of revocation of the liquor license until the building is up to code. Mr. Petrini thought the idea was a good one. Mr. Duca asked about the possibility of a temporary entertainment license. Mr. Petrini proposed the following motion.

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Tolman, that Duca's continue to operate until Monday, March 29th, that they continue to offer entertainment subject to employing a paid fire detail on all evenings that Duca's plans to operate, (in addition to the police detail on Friday and Saturday), all outstanding property taxes are paid by tomorrow, there is appropriate progress made on the fire alarm system such that it is complete no later than one week from today, April 1st, and there is a public hearing scheduled April 8th. So voted.

Mr. Kahn asked about the entertainment license. It does not need to be advertised. Mr. Kahn noted that revocation of license for non-payment of real estate taxes may not be in the purview of the Board. Mr. Sisitsky stated that his purpose for the public hearing was with regard to safety issues, not collection of taxes. Mr. Rees was asked to check with Mr. Bikofsky regarding the need for supplementary advertising for a public hearing. Deputy McGuiggan asked for payment in advance for details.

FY00 BUDGET DISCUSSION

Mr. Rees noted that he was not presenting final recommendations. Revenue sources indicate an additional \$400,000 from Medicaid reimbursements. On the negative side, an additional \$750,000 anticipated from the sale of tax liens may be problematic. Mr. Rees suggested that this revenue source be withdrawn, therefore he projected a net decrease in revenues of \$350,000. Keefe Tech has indicated the need for an additional \$216,942. With regard to Group Health, the appropriation can be reduced by \$122,856. Review of revenues for Loring Arena indicate revenues are not sufficient to cover costs and subsidization might be necessary. School choice expenditures can be reduced by \$30,000. Mr. Rees recommended delaying a decision on cruisers until the fall. Mr. Rees reported a deficit of \$93,484 for a balanced budget. The budget submitted has over a 6% increase. The School Department has approved a budget of \$60 million leaving a difference between revenues and total expenditures of \$1.8 million. To eliminate the need to make personnel cuts on the municipal side, an additional \$654,169 would be necessary. Mr. Rees thought the Board would have to look at the stabilization fund and investigate the use of free cash, however, long term policy issues must be reviewed. Mr. Kahn noted that significant reductions in school education costs were made in another community by privatizing school transportation, food service and maintenance costs. Mr. Rees said he was discussing the subject with the Superintendent and would explore the possibility. Mr. Sisitsky asked the balance in the stabilization fund. It is \$3.2 million. He also asked the Finance Committee's position on the budget. Mr. Rees stated that there had only been a round table discussion to date. Mr. Rees will have specific recommendations by April 8th with a series of questions posed for the Selectmen to review. Mr. Petrini noted that the town was again facing a dilemma, but he would be willing to use the stabilization fund to help balance the budget. Mr. Rees suggested focusing on the long term. Ms. Tolman asked if a joint meeting was possible on April 8th with the School Committee. Mr. Rees will pursue this subject with the Superintendent.

Ms. Silverburg reported that there was a lack of understanding as to where the town's money went. Mr. Petrini stated that unfunded mandates and requirements from the state created budget problems. Ms. Tolman noted that she preferred the word difference as opposed to deficit. She said that proposition 21/2 did not allow for raising taxes above that level causing yearly budget battles.

Ms. Mash, rose to speak about supporting education and stressed the need to do better for the town's children. Mr. Pollock asked if the Board has met with elected state officials to review state mandates. Mr. Rees stated that he felt that the town should not anticipate increases in state aid. With regard to special education costs, the legislators were not hopeful about additional funding. One area of hope might be an exemption of the overlay account for education. Mr. King, spoke about Chapter 70 funding. He suggested that communities band together to bring these issues forward.

Mr. Petrini thanked the Public Works crews for an excellent job during last week's snow storm. Ms. Esty noted that \$13 billion dollars worth of authorized bonding issues exist at the state level.

SELECTMAN'S REPORTS:

Mr. Petrini noted that the Selectman's reports on their site visits were due to go out by Monday. Mr. Kahn asked about consistency in reporting. Ms. Tolman and Mr. Sisitsky planned to summarize comments.

Ms. Tolman reported that the Comprehensive Building Review Committee has narrowed their RFP's down to three candidates. The committee will be meeting again on Wednesday, March 31st.

ACTING TOWN MANAGER'S REPORT

Mr. Rees reported to the Board on the following-9/90 project, 126/135 Study, and the request of Portuguese Recreational Club relative to their lease of town owned property on Irving Street. Mr. Rees reported that the 9/90 sewer is operational. The Engineers anticipate a \$350,000 overrun. Both the legislature and the Mass Turnpike Authority has been petitioned for additional funding. The request before the Mass Pike for funding of \$70,000. There is also \$300,000 in the sewer fund. Mr. Petrini suggested that Mr. Bikofsky be solicited for his opinion as to the town's rights under the construction contract.

Mr. Rees recommended that the Public Works Board review the engineering company's procedures with particular regard to change orders.

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Tolman, that the Public Works Board review the engineering companies procedures regarding change orders. So voted.

Mr. Rees also reported that there will not be sufficient funds for completion of work on Rt. 9 at Country Club Lane. Ms. Esty said that Mr. Grande was to notify the state to disregard Mr. Kutner's PWED submission letter.

Rt. 126/135 Study - the town is petitioning Mass Highway to request that Commissioner Ahe meet

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Tolman, to authorize sending a letter to the Mass Highway Commission, Matthew J. Amorelli, requesting that he meet with the town to advance the 126/135 project to the design stage. So voted.

The Portuguese Club has requested meeting with the Board on April 8th or April 15th to review issues with their lease.

Health Insurance Coalition has met with Management to develop negotiation strategies.

Mr. Rees announced that Sherry Diana, wife of Gerry Diana and former Board of Health employee passed away. A celebration of her life will be held at the Natick Officer's Club on March 27th.

Mr. McCann asked why Framingham's Engineers have been appearing in Southboro. Mr. Rees will investigate.

ACTION ITEMS:

Approval of minutes of December 10, 1998, January 21, 1999 and January 28, 1999.

MOTION:

Moved by Ms. Tolman, seconded by Mr. Sisitsky, to approve the minutes of December 10, 1999. So voted.

MOTION:

Moved by Ms. Tolman, seconded by Mr. Sisitsky, to approve the minutes of January 21, 1999. The motion was withdrawn.

MOTION:

Moved by Mr. Kahn, seconded by Mr. Sisitsky, to table approval of the January 21st minutes pending editing. So voted.

MOTION:

Moved by Mr. Sisitsky, seconded by Mr. Kahn, to approve the minutes of January 28, 1999, Ms. Tolman abstained.

MOTION:

Moved by Mr. Sisitsky, seconded by Mr. Kahn, to approve Executive Session minutes of January 28, 1999. Ms. Tolman abstained. So voted.

One day alcohol permit, Learning Center for the Deaf.

MOTION:

Moved by Ms. Tolman, seconded by Mr. Sisitsky, to approve the petitioner's request for a one day license on April 8th. So voted.

Traffic Lighting Assemblies:

Mr. Bertorelli, Town Engineer, came before the Board regarding an energy saving program instituted by Boston Edison Company. The proposal relates to energy savings for light replacement for traffic lights. Edison will subsidize the cost of replacement lights leaving the Town's contributory share at \$31,506. In addition, the Planning Board has discussed the possibility of using mitigation moneys to help pay for the Town's portion of the program and will release the money if there are no other funds available. The Selectmen need to advise Edison of the town's desire to commit to this program. Mr. Bertorelli requested the Board's approval to sign onto this contract with the caveat that there be a time extension for installation of the lights. Mr. Petrini asked if certification was needed from Mr. Rees in order to use Planning Board money. Mr. Sisitsky recommended that the town take advantage of this program. Mr. Petrini suggested that Mr. Bertorelli speak with Mr. Grande regarding the funding.

MOTION:

Moved by Mr. Sisitsky, seconded by Ms. Tolman, to authorize the Chief Procurement officer to sign the contract on behalf of the Town. So voted.

Commuter Rail Line - participation has been requested by the City of Marlborough to proceed with nominations for this project. Mr. Petrini suggested that the Board wait until a new Planning Director is appointed. Mr. Sisitsky suggested that the manager make a recommendation for nominees. Mr. Rees will review the matter.

MOTION:

Moved by Ms. Tolman, seconded by Mr. Sisitsky, to go into Executive session for the purpose of discussing bargaining with union and non-union personnel, pending litigation, and the Town Manager's contract. A roll call vote was taken with all Selectmen voting in the affirmative. The Board will return to public session for the purpose of adjourning. The Board adjourned at 12:10 a.m.


Valerie W. Mulvey