

## SELECTMEN'S MEETING

MAY 20, 1999

**PROCLAMATION:** Argentina Arias came before the Board to receive a proclamation honoring Festival Hispano Americano to be celebrated June 21-June 27<sup>th</sup>.

**Attendance:** Charles J. Sisitsky, Valerie W. Mulvey, Esther A. H. Hopkins, Christopher J. Petrini and John M. Kahn.

Mr. Sisitsky called the meeting the meeting to order at 7:35 p.m. He reviewed the agenda for the viewing audience.

### **PUBLIC PARTICIPATION:**

Ned Price, Precinct 17, rose to speak about Habitat for Humanity's request for property on Weld Street. Also presents in the audience were Mr. and Mrs. Hatkenson, who are abutters to the land in question. The vote of Town Meeting was 60-54 to sell the lot at its assessed value. Mr. Price noted that there were four vacant buildings on near MCI and he would like the Board to look into the possibility of obtaining the lots for use by the Habitat for Humanity.

### **CONTINUED HEARING - GENERAL CINEMA REQUEST FOR ALL ALCOHOL**

**PERMIT:** Peter Barbieri, Esq., representing General Cinema Corporation, came before the Selectmen to request an all alcohol permit for the General Cinema complex on Flutie Pass. Also in attendance were representatives from General Cinema Corporation. Mr. Barbieri had come before the Board on a previous occasion requesting a beer and wine license at the same location. At that time, the petition was denied. Mr. Barbieri outlined the background of the General Cinema facility stating that the complex has received site plan approval from the Planning Board. The proposed plan before the Selectmen will include a theater with stadium seats, a restaurant with liquor license, and a cafe. Concerns about parking availability were raised by the Zoning Board of Appeals resulting in the addition of 137 new parking spaces. The ZBA approved the Premium Theater proposal. All regulatory permit approvals have been received.

The Premium Cinema concept involves pre-ordering tickets, dining in the upscale restaurant, THX sound, large screen viewing, etc. Cocktail service ceases when the movie starts. Mr. Thornton, General Manager of the Framingham Cinema, reported that any parking concerns have been addressed. If the license is granted, all servers in the complex will be TIPS certified. The facility has a separate entrance allowing for control of alcohol service.

Mr. Sisitsky asked if the petitioner's requested a full alcohol license or beer and wine. They asked for full service. Dr. Hopkins asked what stadium seating was. Mr. Thornton explained that stadium seats were raised. She also asked about drinking before, during, and after the film. Mr. Barbieri stated that the possibility exists. Mr. Sisitsky asked if the Bistro would be empty between shows. He was told that was usually the case. Mr. Sisitsky asked for more information about the bar area. He was told that a full service bar with seating was planned. Mr. Petrini asked if servers would be TIPS certified. They will. Ms. Mulvey asked if there was a special lot reserved for this theater. Mr. Barbieri said that the Planning Board expressed concerns about this suggestion

Lt. McCarthy sent a letter stating that the Framingham Police had no objections to the request. Ms. Mulvey spoke with Officer Donnelly and Margot Deane. Both of them supported the concept.

### **MOTION:**

Moved by Mr. Petrini, seconded by Ms. Mulvey, to approve the petitioner's request for a full alcohol license. (Vote was taken on amended motion.)

### **AMENDED MOTION:**

Moved by Mr. Kahn, seconded by Dr. Hopkins, to amend the motion by asking the Town Manager to work out with the applicant a set of applicable conditions consistent with the discussion undertaken tonight. The Board of Selectmen will review and approve the license before it is submitted to the ABCC. So voted, unanimously.

DISCUSSION:

Mr. Kahn asked if market surveys had been done to help determine the impact of the operation on other licenses in the vicinity. The answer was no. Mr. Kahn asked about any surveys undertaken to ensure that customers do not linger and drink. He was told that informal dialogue took place with general managers of Premium Cinemas. Mr. Kahn asked about customers lingering after the last show. He was told that no alcohol service is permitted after the last show. Mr. Sisitsky asked if patrons can carry drinks into the theater. They can. Ms. Mulvey endorsed the cinema concept. Mr. Kahn stated it was important that the license explain the terms and conditions requested by the Selectmen. He asked Mr. King to work with the licensee to develop these terms. Mr. Kahn would like a provision in the license allowing for review of the operation of the licensed premises for compliance with the conditions. Mr. Petrini stated that the Board could refuse to renew a liquor license upon its expiration for any reason satisfactory to the Board including failure to comply with conditions. Mr. Kahn said that the power to refuse to renew a license was more limited than the power to refuse an initial license. Mr. Petrini thought competition from the theater would favor the community. Mr. Sisitsky agreed.

Both Mr. Schulze and Mr. Ottaviani supported the concept. Mr. Franchi asked if the petitioner's received any calls from MADD. They have not. Tom O'Neil was opposed to the idea.

HEARING - D/B/A CHANGE, GROUND ROUND, INC. TO TIN ALLEY GRILLE --  
1699 WORCESTER ROAD:

No representatives from the Ground Round needed to be present for this hearing. The Ground Round requested that their trade name be changed to the Tin Alley Grill for the restaurant located at 1699 Worcester Road.

MOTION:

Moved by Mr. Petrini, seconded by Ms. Mulvey, to approve the request of the petitioner. So voted.

CONFERENCE—COMPREHENSIVE BUILDING REVIEW COMMITTEE:

Tom Landry and Charles Brody, representatives of the Comprehensive Building Review Committee, came before the Selectmen to discuss the charge of this committee. By way of background, the committee was formed in January of 1999 and charged with reviewing space needs, assessing buildings and studying redevelopment potential of both

Henry Street and Mr. Wayte, with the inclusion of a 21E environmental status report. Mr. Landry explained that RFP's had been issued, however the approval of the Capital Budget Committee seemed uncertain. The Committee agreed that the Town Manager be assigned the responsibility of development of the space needs assessment by July 15. Mr. Sisitsky asked if Henry Street, Mt. Wayte Avenue and the Roosevelt School would be included in the study. Mr. Landry stated that there were only a few options available for the Roosevelt School and the committee did not think it should be part of the plan. Mr. Sisitsky asked for a report from the Roosevelt School Committee. Mr. Brody stated that the Roosevelt School Committee was waiting for the Selectmen to meet before they met again. Mr. Petrini wanted the Committee to sharpen its focus. Mr. King agreed and felt the Selectmen should review the use of the Memorial Building. Mr. Franchi asked why school equipment was being stored at Dennison instead of the Roosevelt School. Mr. Brody said it was because Roosevelt School presented security problems. Mr. Sisitsky suggested revisiting the scope of services. Dr. Hopkins thought the town should undertake a smaller study to reduce the cost. Mr. King agreed stating that readvertising might be an option. Mr. King understood the desire to narrow the scope of the Committee, however handing a space study over to the Town Manager gave him some concern. Although he felt that key parts of school and town administration should be housed in the same location, Mr. King stated that he could not technically determine space needs for individual offices. He asked if space needs involved placement of personnel or actual square footage studies.

With respect to the Mt. Wayte and Henry Street sites, Ms. Mulvey noted they would need to be cleaned. She asked if the study necessitated immediate clean-up and if Brownfields legislation be used for this purpose. Mr. King stated that local Brownfields legislation only provided tax relief for specific site clean-up. Mr. Landry was asked to research the topic.

Mr. Landry stated that the Memorial Building had been the subject of two studies and the present committee could review the studies. Mr. Kahn suggested referring the topic back to the Committee and the Town Manager for further review. He went on to state that a consultant might be retained to develop a self-assessment check list for town use. Mr. Kahn also agreed with Mr. Landry's suggestions.

CONFERENCE—CABLEVISION LICENSE AGREEMENT:

Rosalind Niles, Esq., Tom Landry, Tom Green, Tom Landry, Jim Divver, Tim Magner, Norma Shulman and Rem Goldman, Cable Advisory Committee members, came before the Selectmen for their final approval of the Cablevision License Agreement. Mr. Divver thanked members of the committee and Town officials for their superior effort to negotiate the contract. Mr. Divver stated that, from the committee's point of view, negotiations had come to an end.

TERMS & HIGHLIGHTS:

The term of the license period is for 5 years, retroactive to the expiration of the original license last July. Included in the agreement is language requested by the Selectmen regarding a level playing field. Cablevision is unwilling to negotiate this point further and the Board will have to take over if the language is unsatisfactory.

With regard to a "level playing field," the Committee embraces the concept of treating both licensed cable operators in a fair and similar fashion. Mr. Petrini stated that the Board was putting into place the blueprint for further licenses and Cablevision did not subscribe to the theory. Mr. Landry said that the license agreement did not speak about price or programming, only the substantive issues. Mr. Kahn asked if the RCN license will need similar language.

Ms. Niles explained that, if changes occurred with RCN's license, a case would have to be made by Cablevision regarding unfair treatment. Mr. Kahn noted that, by putting this clause in the license, the case could go before the court. Mr. Petrini asked why Cablevision felt this clause was so important. Mr. Irvin, Cablevision, stated that his firm was seeking equal application of the law. This language has been accepted by every community that licenses Cablevision. Dr. Hopkins questioned page 12, competitive disagreement. Mr. Irvin wanted assurance that different terms would not be applied to Cablevision. Dr. Hopkins questioned the video programming term in the contract. Mr. Sisitsky stated that the right to convene a public hearing regarding competitive disadvantage was a broad term. He felt that competition should not necessarily allow for a public hearing. Mr. Petrini noted that Cablevision has stepped to the table more often due to competition. He asked what the standard of review would be to take the town to court. Ms. Niles stated that this provision has not been tested in court. Mr. Sisitsky did not think that Framingham wanted to enter into a "level playing field," agreement with either cable provider.

INET:

The existing network for Town and School facilities will be maintained and expanded if new facilities are built.

TOWN FACILITY SERVICE

All Town and school buildings shall receive free expanded basic service. School buildings shall receive 300 free "drops." Coupled with the 250 to be provided by RCN, virtually every classroom will have the capacity to receive cable programming. Mr. Kahn asked if Keefe School or Marian High would receive equivalent benefits. Mr. Landry said that neither school is included. Mr. Kahn asked if Cablevision might agree to service these schools. Mr. Irvin stated that the provisions of the contract were linked to public schools.

INTERNET SERVICE

Free Internet service shall be provided to the School Department with permission to extend it for use at all school locations through a department owner server. Mr. Sisitsky asked why this offer was not made for Town Hall. The answer was that Cablevision does not view the schools as a revenue stream.

SENIOR DISCOUNT

At age 62, \$2 off the monthly fee for Expanded Basic Cable Service will be provided. Also included in the license is a provision for INET, service agreement for town facilities, Internet service, a senior discount, local programming, financial contributions and assurances.

#### LOCAL PROGRAMMING

Both education and town programming channels will continue to be offered. Cablevision will produce 16 hours of programming weekly. Starting July 2000, the Town will produce all government programming, and will receive 1% of Cablevision's gross revenues (about \$65,000) to pay this expense each year.

#### FINANCIAL CONTRIBUTIONS

In addition to the local programming payment described above, Cablevision will make the following cash payments to the Town.

\$125,000 to the School Department for high school studio equipment.

\$35,000 to the Town for Government Access costs.

\$100,000 in matching grant (2 for 1) for high school studio capital build out. 1% of gross revenues (approx. \$65,000) annually to the School Department for Technology Education program support.

Annual license fee of 50 cents per subscriber, which is presently being received-about \$9,000.

The Committee believes this license is extremely beneficial to the Town.

#### MOTION:

Moved by Mr. Kahn, to approve the license as submitted. Seconded by Ms. Mulvey. So voted, unanimously.

#### DISCUSSION

Mr. Petrini asked if the Board received a corrected version of the license. They have. Dr. Hopkins asked if educational training for citizens would continue. It will and Mr. Gay will be providing the service to the community.

Mr. Divver asked that the Committee be dissolved. Ms. Niles felt the Committee should be kept intact for the present. Mr. Landry stated that revenues received from Cablevision should be monitored and that the Town Manager, the CFO and a member of the School Committee oversee the fund. Mr. King will come forward with recommendations for composition of the new committee. Mr. Kahn asked for minutes of the committee meetings.

#### PORTUGUESE CLUB LEASE

Mr. Landry stated that the Club had a request before the Board asking for some relief on the present conditions of the lease. A sub-lease of the lot was approved by the Selectmen in December. The Portuguese Club is currently in arrears in the amount of \$2,091. Mr. Landry provided two options for the club. The Town could notify them that the original agreement cannot be altered or agree to change the terms for the remaining fourteen months left on the lease. Mr. King that the Club was in arrears on payment and felt we should not make amendments to the Club's lease. Mr. King recommended that we notify them that we expect the money. If the Club does not pay and chooses to break the lease, we can re-advertise the lease and give it to the highest bidder.

#### MOTION:

Moved by Dr. Hopkins, seconded by Mr. Kahn, to accept Mr. King's recommendation. So voted.

#### TOWN MANAGER'S REPORT:

Mr. King reported to the Board that he had investigated the dormant status of O'Brien's Package Store. Town Counsel advised the Board may hold a hearing to see if the license should be modified, revoked or suspended if the store is not serving the public. The Board will receive an update next week.

Mr. King requested that he be given authority to sign Planning Board applications on behalf of National Development of New England. Another building is being built at 200 Crossing Boulevard and Planning Board regulations require that the landowner sign off on all applications. Mr. Sisitsky asked the status of the request for the \$200,000 from NDNE. Mr. King stated that Computer Associates was required to pay up to \$200,000 for 9/90 cost overruns. Mr. O'Neil will provide the funds within ten days. Mr. King was authorized to sign the documents.

Mr. King stated that he has requested that Mr. Skinner make recommendations as to how we may cover the balance of the deficit for the 9/90 sewer project. The estimated amount necessary is in the amount of \$150,000 to \$200,000. Contract disputes exist over looming and seeding issues.

Funding could be obtained from a budget line item or the retained earnings fund. Dr. Hopkins asked if additional interest was accruing on over due bills. Mr. King did not think so. Mr. Kahn asked why there was a surplus in the sewer operations line item. Mr. King stated there was no surplus in the sewer account. Any sewer replacement work will be delayed.

Mr. King announced that the Cushing Chapel will be re-dedicated this Saturday, May 22, at 10:00 a.m. The public is invited to attend.

Rosewood Corporation is waiting for a hearing before the Historical Commission before they can proceed with the Dennison project. Mr. King did not recommend a six month moratorium on demolition. Many public safety officials feel Dennison Buildings should be razed. Mr. Petrini agreed.

**MOTION:**

Moved by Mr. Petrini, seconded by Ms. Mulvey, to send a letter to the Historical Commission asking them, in the course of their deliberations, if it would be possible to consider this project with regard to its economic benefits to the Town, and ask the Historical Commission to work toward a reasonable resolution in a timely fashion. So voted. Ms. Mulvey asked Mr. King to have Chief Smith write to the Historical Commission.

Mr. King stated that Cablevision has repaired the sound system in the Ablondi Room. Mr. Kahn asked when open items were to be addressed. Mr. King requested that the Board submit a list of open items.

South Wye parking-Mr. King stated that Conrail will not be able to negotiate a contract until their merger is concluded in June. A Town Meeting might be necessary in order to lease the land.

Mr. Kahn asked if the kennel issue could be resolved. Mr. King will investigate.

Mr. Kahn asked about filling vacancies. Mr. King stated that interviews for the Planning Director's position will begin next week. The appointment of a Conservation Administrator will take place within two weeks. With regard to the Public Works Director, Mr. King would like a departmental management study done and will submit a RFP to the Board at the next meeting.

Mr. Kahn asked if a summer schedule could be adopted. Mr. King suggested that the Board meet on May 27<sup>th</sup>, June 3<sup>rd</sup>, June 10<sup>th</sup>, and then every other week in July and August. Mr. Sisitsky requested a work session to establish goals. Mr. Petrini agreed.

**ACTION ITEMS:**

The Board reviewed the minutes of April 22, April 28 and May 3, 1999.

**MOTION:**

Moved by Dr. Hopkins to table acceptance of all three sets of minutes. Seconded by Ms. Mulvey, and so voted.

**APPROVAL OF PARKING RATE INCREASE:**

Moved by Mr. Petrini, seconded by Ms. Mulvey, to approve the Town Manager's recommendation on Pearl Street Garage parking relative to item 2, that people currently parking at the garage be allowed to keep their spaces, with the balance of spaces being allocated by a lottery and item 3, Framingham residents and item 3, Framingham residents would receive a preference in any lottery. With regard to a monthly rate, Mr. Petrini suggested rates of \$50 for residents and \$65 for non-residents. No vote taken. Mr. Khan suggested separating parts of the motion. Mr. Petrini agreed.

- Rent the Pearl Street Garage on a monthly basis. All Selectmen voted, "Aye."
- People parking at the garage be allowed to keep their spaces. The balance of the spaces will be allocated by application and if necessary, lottery. All Selectmen voted, "Aye."
- Framingham residents would receive a preference in any lottery. All Selectmen voted, "Aye."
- The monthly rate would be \$50 for residents and \$65 for non-residents. Three Selectmen opposed, Ms. Mulvey and Mr. Petrini in favor. Ms. Mulvey felt it hypocritical to discourage public transportation and was in support of Mr. Petrini's suggestion.