

SELECTMEN'S MEETING
October 28, 1999

Location: United Church of Christ Conference Center

Attendance: Charles J. Sisitsky, Valerie W. Mulvey, Esther A. H. Hopkins, John M. Kahn and George P. King, Jr., Town Manager.

Open Session:

Mr. King discussed proposed zoning articles for Town Meeting. He noted that Kathy Bartolini, Planning Director, voices some opposition to the article dealing with dimensional requirements of lots. Mr. King told her she should not discuss any articles without the input of the Selectmen and asked the Selectmen if they would like to take her recommendations. Mr. Kahn suggested inviting Ms. Bartolini to the next Selectmen's meeting to discuss her position. Dr. Hopkins recommended that all departments make their position known to the Board. Mr. King said he would request a memo from Ms. Bartolini with her recommendations on planning and zoning articles, with particular concentration given to downtown dimensional articles. Additionally, he will ask all department heads to submit any input on articles prior to the Selectmen's meeting of November 4, 1999.

Dr. Hopkins was concerned about the land bank article submitted by Barbara Gray. She wondered whether the Selectmen needed to take a position. Mr. Kahn reported that sentiment indicated that the article was not sufficiently prepared by its sponsor for presentation to Town Meeting.

Dr. Hopkins requested that all presentations made to Town Meeting be readable to the audience.

Mr. Kahn raised the issue of the land article on Mt. Wayte. The Planning and Zoning Committee recommended that the property be restricted to single family use, owner occupied, or that it be left as open space. Phil Ottaviani hoped to purchase this parcel of land from the town to enlarge the lot his family owns on Mt. Wayte Avenue. Further discussion occurred regarding this article.

Mr. Kahn discussed the recent Conservation Commission hearing relative to the proposed Fafard development in north Framingham. He noted that a recording secretary was not present during the entire hearing. Mr. Kahn would like a procedural policy implemented regarding minute taking. Mr. King stated that personnel problems existed with clerical staff working for the Conservation Commission. He was taking steps to rectify this situation.

Motion:

Moved by Ms. Mulvey, seconded by Dr. Hopkins, to move into executive session for the purpose of discussing collective bargaining. So voted, by roll call, unanimously.

Motion:

Moved by Ms. Mulvey, seconded by Dr. Hopkins, to adjourn. So voted, unanimously.


ESTHER A. H. HOPKINS, CLERK

SELECTMEN'S MEETING MINUTES
OCTOBER 21, 1999

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

Mr. Sisitsky called the meeting to order at 7:30 p.m. and reviewed the agenda for the public.

Proclamation: Human Mosaic Week, November 1st - 7th. Joan Webster, Human Relations Administrator, Bob Schecter, Human Relations Commission Chair, and Marion Slack, Human Relations Commission Vice-Chair, came before the Selectmen to receive a proclamation for the upcoming Human Mosaic Week. They were commended for their commitment to the diverse Framingham population. Human Mosaic week will begin on November 1st and continue through November 7th. Ms. Mulvey thanked the Human Relations Commission for honoring Mrs. Webster, this year's recipient of the Human Relations Award.

Public Participation:

Daniel Nau rose to commend John Bertorelli for his efforts as Acting Director of Public Works for this past several months. He stated that Mr. Bertorelli was an excellent interim director.

Hearing - Bell Atlantic - New Pole on Clark Street:

No representative of Bell Atlantic was present.

Motion:

Moved by Mr. Petrini, seconded by Ms. Mulvey, to table the hearing and place it on the agenda one more time before the petition is denied. So voted, unanimously.

Hearing - RCN/Beco. Co. - Installation of Telecommunication Conduit:

Barry Maffini, Right of Way Manager for RCN, came before the Board to petition for the placement of telecommunication conduit on the following streets: Loring Drive, Ward Farm Circle, Brook Street, Water Street, Edmands Road, Meredith Street, Murray Hill Road, Cherry Street, Evergreen Street, Central Street, Donovan Lane, Donovan Drive, Oakwood Drive, Worcester Road, Claudette Circle, Temple Street, Hemenway Road, Walnut Street, Oran Road and Dudley Road. Dr. Hopkins asked what a "ham hole" was. It was explained that it is a smaller version of a man hole.

Motion:

Moved by Ms. Mulvey seconded by Dr. Hopkins, to approve the petitioner's request. So voted, unanimously.

Hearing - Change of Manager, Pizzeria Uno - Alexander Loverme, Jr. proposed Manger:

No representatives from Uno's Pizzeria were present.

Motion:

Moved by Mr. Petrini, seconded by Ms. Mulvey, to table the hearing. So voted, unanimously.

Town Manager's Report:

Appointment of Town Counsel

Mr. King reviewed his October 5, 1999, Memorandum to the Board regarding the legal service options available to the Town. The three options outlined by the Town Manager include retaining the present service arrangement, employing a full-time counsel or making use of a full service firm. Current circumstances have led Mr. King to recommend the re-appointment of Aaron Bikofsky as Town Counsel.

He cited Mr. Bikofsky's institutional knowledge and experience as valuable in his important position with the Town, especially with many new people in key positions. A major undertaking such as changing Town Counsel would be inadvisable at this time. Mr. King also mentioned that Mr. Bikofsky indicated that this may be his last term as Town Counsel. Thus, proper planning for a change in legal services to the Town is possible. The Manager recommended a transition of legal services towards a full service firm. In terms of price and service it appears to be the best option for the Town. However, the steps taken in this direction should be measured. Mr. King's recommendation was to re-appoint Mr. Bikofsky for a three year term, to expire on June 30, 2002 and investigate the other options.

Motion:

Moved by Mr. Petrini, seconded by Ms. Mulvey, to re-appoint Mr. Bikofsky for a final three year term. So voted, unanimously.

Dr. Hopkins asked what kind of RFP would be presented to obtain comprehensive services for a full-service term. Mr. King agreed that an extensive RFP will be generated.

Bennigan's Alcohol Violation:

All Alcohol License violation of August 19, 1999. The license was granted for an outdoor "Beach Party." Lt. McCarthy addressed two issues. The first issue was the service of alcohol after the specified hour of 12:00 A.M., the second was the excessive noise from the band which generated complaints from neighbors. One of four on duty officers could say for certain that alcohol was served until the event's conclusion at 12:20 or 12:30 A. M. Lt. McCarthy stated that there were several mitigating circumstances on that front. Among them was initial correspondence from Bennigan's requesting a special license terminating at 12:30 A.M., July 22 Selectmen's Meeting minutes approving a One Day Special License to conclude at 12:30 A.M., inability to locate the original application submitted by Bennigan's and prior Special Licenses issued with hours as late as 1:00 and 2:00 A.M. Lt. McCarthy does not believe that management intentionally went beyond the specified hour approved for the event.

Lt. McCarthy recommended the quality of life issues for nearby residents be addressed by a letter of apology to residents of the apartment complex, a \$1,000 donation to the complex to be used for the direct benefit of residents—such as a playground, a \$200 fine be paid to the Town for the cost of this investigation and future outdoor events be curtailed. Bennigan's agreed to the proposal. Mr. Sisitsky commended Lt. McCarthy for his creative solution to the problem and agreed there was legitimate confusion on the part of the Bennigan's. Dr. Hopkins asked if the town could have given a license until 12:30 p.m. since it was a one day license. Mr. King said that this license could be given for a twenty-four hour period, however, Bennigan's as a licensee, is responsible for what their license says. Ms. Mulvey was comfortable with the solution stating there was confusion about the time the event ended. The Board would like representatives from Bennigan's present to discuss the proposed recommendations..

Motion:

Moved by Mr. Petrini, seconded by Ms. Mulvey, to table action until the licensee can come in for appropriate disposition of the violation. So voted, unanimously.

Permanent Building Committee

Mr. King was asked to evaluate whether the Clerk of the Works for the Cameron School project is qualified for the position and whether the agreement dated January 7, 1999, describing services to be rendered by him is sufficient to protect the interests of the town. An ongoing investigation by the State Ethics Commission is underway, however the Commission has not ruled on the matter. Mr. King proposed a course of action which may require further local response when the Ethics Commission rules on the case.

Mr. King reviewed Mr. McCarthy's qualifications for the position of Clerk of the Works of Cameron School. Since the Town Manager was not present at any of the interviews for the Clerk's position, nor does he have any expertise in management or oversight of major constructions projects, he felt it was difficult to evaluate Mr. McCarthy's qualifications. Additionally, the allocation of responsibility for management of this project has been placed in the hands of the Permanent Building Committee by Town Meeting. Mr. King did note that the Permanent Building Committee has done excellent work on town projects.

- The application of Mr. McCarthy was dated well after the advertised deadline. Mr. McCarthy's written application does not adequately disclose his qualifications for the position.
- His appointment was considered and decided by the PBC when he was still a member, even though he did not vote. This is more than a technical violation of the Conflict of Interest Law.
- There are no recorded votes appointing Mr. McCarthy and establishing his rate of pay.

Action Plan

1. Leaving the specific issue of the validity of the appointment of Mr. McCarthy to the State Ethics Commission which has the power to void the contract if warranted.
2. Requiring the Permanent Building Committee prepare an appropriate, revised contract to be approved both as to substance and to form by Town Counsel delineating in sufficient detail the specific duties of the Clerk of the Works. If acceptable, it must be signed by Mr. McCarthy. If not, the Town Manager will take appropriate action to protect the town's financial interests.
3. Requiring the Permanent Building Committee to take a formal vote authorizing the terms of the revised contract. This action will be reported to the Ethics Commission.
4. Requiring Mr. McCarthy to provide sufficient documentation to demonstrate his experience in past building projects and his specific qualifications to perform the duties of this position. The Town Engineer and the Building Commissioner will review the comments as to Mr. McCarthy's qualifications for the position.
5. Recommending Town Meeting consider revising the structure of the Permanent Building Committee to accomplish the needs describe. Town Counsel has been instructed to draft an article and motion for submission to the relevant committees for consideration and action by Town Meeting.

No vote of the Board is required. Dr. Hopkins asked about the power of the Ethics Commission to void the contract. She asked if the Ethics Commission might have a problem with a new contract and perhaps consider voiding it. Mr. King felt that the interests of the town would be served by drafting a contract.

Ms. Bullock questioned the process of writing a new contract with regard to the State Ethics Commission. Mr. King felt the town had to move forward to protect its interests. Town Counsel has reviewed the action plan. Mr. Petrini noted that the Ethics Commission will be notified of the new contract. Mr. King thought that re-writing the contract would protect the town in that it would delineate Mr. McCarthy's responsibilities.

Mr. Sisitsky suggested amending the original contract. Mr. Petrini agreed, stating the contract could be subject to the ruling of the Ethics Commission and felt Mr. King's overall approach was reasonable.

Dr. Hopkins felt there were two separate issues under discussion. The Ethics Commission is dealing with the fact that Mr. McCarthy was not properly hired. The contract is an entirely separate issue.

Mr. Dwyer stated that no allegations were made regarding the Permanent Building Committee nor did anyone allege that the PBC did not do a credible job. He stated that issues being addressed were those of procedure. Beth Bannon was in total agreement with Mr. King's recommendations. She urged him to look into the \$219,000 figure in the DiNisco agreement for the Clerk of the Works. Additionally, Ms. Bannon discussed Article 21 relating to minutes of the Permanent Building Committee. She stated that the Permanent Building Committee was not complying with Article 21 and encouraged the Selectmen to review this matter. Mr. King stated that the PBC has been complying with the directive but he will make certain that the minutes are distributed.

Mr. King announced that he appointed Mark Call as the new Director of Public Works. John Bertorelli and Paul Josephson were thanked for their help during the difficult transition period.

CSX Lot:

Mr. King stated that the MBTA has approved the final \$40,000 for the construction of the lot, however the construction season is nearing an end. If this lot is not available during the winter, it will be constructed in the early spring.

Town Meeting Standing Committee-Human Services:

Mr. King reported that the Standing Committee on Human Services sponsored a health care forum which was attended by over 100 people. Dave Hutchinson was congratulated for his work on this committee.

Census 2000

Mr. King stated that a proper and accurate census count is necessary in order for Framingham to receive appropriate funding. Darcy Hawes, Acting Town Clerk, will appear before the Selectmen to update them on the process.

Conference - John Bertorelli - Traffic Plan, Gregory & Whittemore Roads:

In response to the concerns of residents, Mr. Bertorelli reported on the traffic conditions for Whittemore Road. Data regarding Whittemore Road was collected during a 48-hour period between September 29th and October 1, 1998.

Data showed that speeding was not a major concern for the most part, however the existing geometric configuration of the intersection of Whittemore at Gregory Road is of concern. A temporary trial of a proposed modification at the corner of Whittemore achieved successful results, and after a public hearing in the Memorial Building was held, the consensus of Whittemore Road residents was to make the improvements permanent. Gregory Road residents objected, however, the improvements will have no effect on the traffic on Gregory Road. One issue raised by residents include maintenance of the grassy area on Gregory Road. Planting shrubs should alleviate the problem. The cost to the town is minimal for improvements. Some neighbors expressed concern about safety on Whittemore Road.

Motion

Moved by Mr. Petrini, seconded by Ms. Mulvey, to approve the recommended traffic improvement plan submitted by the Engineering Department for Whittemore Road. So voted, unanimously.

Selectmen's Reports:

Mr. Petrini raised the issue of the MetroWest Foundation. He expressed concern about the Foundation getting off on the right foot and would like clarity as how the Foundation registers itself. He and the Selectmen were informed that the Foundation was to be a public charity and suggested that the Selectmen might like to obtain a level of comfort from the Foundation as to its status. Mr. Sisitsky agreed, as did Ms. Mulvey. Public accessibility to Foundation meetings was a major concern of the Selectmen. Mr. Petrini offered to work with the Town Manager and compose an appropriate letter to Ms. Reinhardt and Ms. Blummer regarding the Foundation.

Ms. Mulvey asked the Selectmen to respond to questionnaires sent out from the MetroWest Growth Management Committee. Mr. King was asked to coordinate efforts with the Planning Director. Mr. Petrini suggested placing the topic on an agenda for the Board's review. Ms. Mulvey urged the Selectmen to complete this survey and return it to Kathy Bartolini.

Ms. Mulvey noted that the Selectmen were invited to attend a School Committee on October 28th. She suggested that the Board consider attending this meeting in lieu of the proposed work session. Mr. King stated that he had asked Mark Rees to attend the School Committee meeting on behalf of the Board. Mr. King was asked to notify Dr. Smith of this arrangement.

Ms. Mulvey announced that the monthly meeting of the Widow's Service Group run by John Zucchi will be held at the Callahan Center on October 28th at 4:30 p.m. Volunteers are needed.

Dr. Hopkins asked the status of the Advocates contract. Mr. King will investigate.

Action Items:

Approval of amended minutes of September 23 and 30, 1999.

Motion:

Moved by Dr. Hopkins, seconded by Ms. Mulvey, to accept the amended minutes of September 23, 1999. So voted, unanimously.

Ms. Mulvey asked to be added to the attendance list and Dr. Hopkins asked that the spelling of OSHA be corrected on the minutes of September 30, 1999.

Motion:

Moved by Ms. Mulvey, seconded by Mr. Petrini, to accept the amended minutes of September 30, 1999. So voted, unanimously.

Executive session - September 30, 1999:

Motion:

Moved by Ms. Mulvey, seconded by Dr. Hopkins, to approve the Executive session minutes of September 30, 1999. So voted, unanimously.

Approval of Weld Street Parcel Bid Award

According to Tom Landry's Memorandum to the Board, MetroWest Habitat for Humanity submitted the only bid for the purchase of the Weld Street Parcel. Mr. Landry did acknowledge that MetroWest Habitat for Humanity did expend every effort to meet the town's requirements. The bid received a rating of 74.4—Advantageous— using RFP's Relative Criteria rating system. Specific ratings comprise Initial Capital Contribution, Ongoing Financial Contribution, Resident Ownership, Owner Income Level, Developer History, Property Suitability, Recapture Provisions and Selection Process. Mr. Landry's recommendation was to accept the proposal.

Motion:

Moved by Mr. Petrini, seconded by Ms. Mulvey, to accept the proposal and authorize the sale of the Weld Street Parcel to Habitat for Humanity. So voted, unanimously.

Approval of Amended Sanitation Policies

At the meeting of August 12, 1999, the Selectmen requested that the Public Works Department address some questions regarding proposed sanitation policies and present revisions to the Board.

3 - Amount of trash at curbside:

The town has the right to limit the amount of material put at curbside from any one dwelling unit on collection day. That limit shall be (5) 35 gallon barrels.

#5 - Special collections:

Residents will now be charged for a special curbside pickup for all rugs, mattresses, furniture, television sets and computer monitors in addition to the existing special collection for appliances and other metal material. A fee schedule will be provided to residents.

#7 - Allowable receptacles:

Receptacles shall be no larger than 35 gallon capacity and weigh no more than 40 pounds.

Mr. King recommended adoption of the revised policies.

Motion:

Moved by Dr. Hopkins, seconded by Ms. Mulvey, to approve the revised Department of Public Works policies. So voted, unanimously.

Approval of one day licenses - Framingham State College:

Alumni Annual Event October 22nd & 23rd and Class of 1954 reunion. Dr. Hopkins pointed out that there was an error on one of the licenses.

Motion:

Moved by Ms. Mulvey, seconded by Dr. Hopkins, to approve a one day special license at Framingham State College for the Class of 1954 reunion. So voted, unanimously.

Motion:

Moved by Ms. Mulvey, seconded by Mr. Petrini, to approve a one day special license at Framingham State College for an Alumni Annual Event on October 23, 1999. So voted, unanimously.

Appointment of Cemetery Commissioners:

Mr. King recommended appointing the three Park Commissioners to fill dual roles and act as Cemetery Commissioners.

Motion:

Moved by Ms. Mulvey, seconded by Mr. Petrini, to appoint Barry Bograd, Mark Goldman and Robert Brown to the Cemetery Commission for three year term, to expire in 2002. So voted, unanimously.

Appointment to Commuter Rail Subcommittee:

The Selectmen are in receipt of two letters of request from residents asking to be placed on the Commuter Rail Sub-Committee. The candidates are: Edward McGrath and Stephanie Kowal. Mr. McGrath introduced himself to the Board and outlined his qualifications.

Motion:

Moved by Mr. Petrini, seconded by Ms. Mulvey, to appoint Edward McGrath to the Commuter Rail Sub-Committee. So voted, unanimously.

Release of Executive Session Minutes:

The town is obligated to make executive minutes available to the public when the reason for the executive session is no longer pertinent. Mr. King presented the Selectmen with 1999 minutes which may be declassified for release.

Motion:

Moved by Mr. Petrini, seconded by Ms. Mulvey, to approve the Town Manager's recommendation with the exception that all of page eight be released. So voted, unanimously.

Moved by Ms. Mulvey, seconded by Dr. Hopkins, to move into Executive session for the purpose of discussing litigation and return to public session to adjourn. A roll call vote was taken with all Selectmen voting in the affirmative.

Motion:

Moved by Ms. Mulvey, seconded by Dr. Hopkins, to adjourn at 10:00 p.m. So voted, unanimously.


ESTHER A.H. HOPKINS, CLERK