

# TOWN OF DEERFIELD

## BOARD OF SELECTMEN

October 18, 2006

### MINUTES

1. Meeting Convenes at 7:25 p.m., Deerfield Municipal Offices.
2. Present: M. Gilmore (Chair), C. Shores Ness, J.P. Paciorek  
Absent: B. Kubiak
3. There was no public comment.
4. The Board of Selectmen made the following announcements:
  - A. 1<sup>st</sup> Annual Deerfield Energy Fair will be held on October 21, 2006 from 9:00 am to 1:00 pm at the Municipal Offices.
  - B. Massachusetts Clean Energy Choice Donation Program offers energy credits after a donation to the fund. People should talk to the Energy Committee (at the Energy Fair) for further details.
  - C. American Farmland Trust will present information on current farm regulations and preservation/protection guidelines. Presentation will be on November 8, 2006 at 6:30 pm.
  - D. Massachusetts Association for Boards of Health will hold the annual training session in Holyoke on October 21, 2006 beginning at 8:30 am. There are additional dates for other locations around the state, but that information was not available for the meeting. J.P. Paciorek will attend.
5. B. Kubiak reminded the members that though the state has nominally accepted the Open Space & Recreation Plan, letters of support from the Planning Board, Conservation Commission, and the Board of Selectmen will be necessary. It might be helpful if the Deerfield Land Trust send a letter as well. The state has also suggested adding additional language on the consideration of the needs of special populations to the Plan. B. Kubiak will work with B. Labich at the Franklin Regional Council of Governments on it. A draft letter of support will be submitted for the Board's approval.
6. C.S. Ness read into the record a Notice of Hearing regarding the application by Neil Johnson d/b/a Keg 'n' Kork for an all alcoholic package store liquor license. B. Kubiak noted that the Alcoholic Beverages Control Commission

instructed the Local Licensing Authority to treat this as a new license, rather than a license transfer, thus necessitating an additional hearing on this issue. M. Gilmore, after confirming that there were no further facts to consider, invited public comment. There were no comments. M. Gilmore motioned to close the public hearing, J.P. Paciorek seconded; unan. approved. J.P. Paciorek motioned to grant the Section 15 All Alcoholic Package Store Liquor License; C.S. Ness seconded; unan. approved.

7. Hotel Warren: R. Calisewski sent a letter notifying the owner of that housing violations specified had not been corrected, nor had any building permits been taken out as part of the correction process. B. Kubiak suggested, upon the advice of C. Kaniecki of DPH, that the Board of Health hold a hearing to determine a course of action. He noted that a possible date of October 30, 2006 at 7:30 pm here at the Municipal Offices. C. Kaniecki could attend that hearing. After discussion, J.P. Paciorek motioned to set a public hearing date of October 30, 2006 at 7:30 pm to discuss the situation at the Hotel Warren; C.S. Ness seconded; unan. approved.
8. C.S. Ness motioned to sign the Warrant for November 7, 2006 Election; J.P. Paciorek seconded; unan. approved.
9. Union #38 Contract Negotiations: B. Kubiak notified the Board that after careful scrutiny of MGL Chapter 150, Section 1, the Town Administrator or his designee is authorized to participate on behalf of the Town in the contract negotiations with the regional school (Union #38). M. Gilmore questioned the interpretation of the law given the fact that the Town Administrator's position is not designated by Deerfield to be the Chief Executive Officer's position and since there was no current job description, he believed it was the Selectmen's discretion to appoint. Both C.S. Ness and J.P. Paciorek voiced their opinion that the representative be part of the Finance Committee or have a strong financial background. They felt that G. Oakes, Jr. would be a good choice. J.P. Paciorek motioned to have Finance Committee choose a member of their committee to negotiate on behalf of Deerfield; no second, motion withdrawn. M. Gilmore felt that a Finance Committee recommendation was appropriate. C.S. Ness noted that negotiations begin in two weeks; very little time to act. At length, B. Kubiak clarified that per the discussion, he understood the Board's wishes to be ① contact G. Oakes, Jr. to see if he'd be willing to serve and if not, ② contact M. Russo for suggestions on Finance Committee members that might be willing to represent the Town. M. Gilmore instructed B. Kubiak to proceed.

10. Proposed Smoking Ban in Private Clubs: B. Kubiak noted that 7 additional opinions were submitted to the Board on this subject—three (3) supporting the initiative and four (4) against a ban. He then noted for the record that C. Sbarra (Senior Staff Attorney for the Massachusetts Association for Health Boards) confirmed that the Board of Health may put a ban of this nature into effect at their discretion, but are not required to do so. J.P. Paciorek informed the members that after extensive discussion with the State Ethics Commission, he may in fact vote on this issue, once full disclosure is made. He went on to state that his brother T. Paciorek is a member of the Board of Directors of the Polish-American Citizens Club. Neither T. Paciorek nor J.P. Paciorek receives financial remuneration as a result of PACC Board of Directors' participation. Nor does J.P. Paciorek receive remuneration as part of the familial relationship that exists. J.P. Paciorek read into the record a complete explanation of the Massachusetts Superior Court ruling on American Lithuanian Naturalization Club, Athol, Mass, Inc., & others vs. Board of Health of Athol & another, by C. Sbarra. Extensive discussion ensued. C.S. Ness supports a ban, noting that the club is not private space and that this is a public health issue. If the PACC had proposed regulating smoking in a separate, ventilated space, that might have been a negotiating factor—they did not put forth any alternatives. J.P. Paciorek approves of the ban, due to the health risks of smoking and those associated with second-hand smoke. M. Gilmore strongly opposes the ban, stating that the PACC should decide this issue as part of their democratic process. Further, he is concerned that a ban limits the rights of dues-paying club members and the Town should not interfere in PACC governance. Should the Board approve this ban, M. Gilmore wants clear regulations that include an appeals process. B. Kubiak noted that sample regulations submitted by C. Sbarra would need very little modification. Presently the Town's appeals of non-criminal fines are sent to the District Court, B. Kubiak explained, but the Selectmen may specify that the Board of Health hear the appeal first. Both M. Gilmore and J.P. Paciorek questioned the fine schedule, but B. Kubiak reminded the members that the fines are required by statute. Code changes are necessary on the Town's part to change this aspect of the regulations. C.S. Ness motioned that the Board of Health adopt regulations prohibiting smoking in private clubs; J.P. Paciorek seconded; motion approved 2-1-0. M. Gilmore reminded the members that if they wanted to enact this smoking ban in the by **December 1, 2006**, regulations must be ready by that time. He advised B. Kubiak that this should be a priority. B. Kubiak will submit a draft within two weeks.
11. J.P. Paciorek motioned to adjourn, following the signing of the Warrant; C.S. Ness seconded; unan. approved.

Respectfully submitted,

Kayce D. Warren  
Administrative Assistant

☐ Approved

☐ Not approved

Date: \_\_\_\_\_

Corrections: \_\_\_\_\_

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