



**Board of Selectmen
Minutes
April 6, 2010
Town Hall Meeting Room**

The meeting was called to order at 7:00PM by Chair, Ron Ricci in the Town Hall Meeting Room. Ron Ricci, Lucy Wallace, Tim Clark, Marie Sobalvarro and Peter Warren were all in attendance.

Ron Ricci opened the meeting by sincerely thanking DPW Director Rich Nota, DPW employees, Fire Chief Bob Mignard, volunteer firefighters and the National Guard for their efforts in securing the dam at Bare Hill Pond during the severe rain storm that caused flooding throughout the state.

TOWN CENTER SEWER BUILDING COMMITTEE UPDATE – Chairman Chris Ashley explained the engineering report was sent to DEP in the fall for evaluation prior to being submitted to the state for participation in the State Revolving Fund. Unfortunately, the plan score ranked the town out of range to be considered for the initial funding program. He indicated there is a very good possibility other projects may not receive funding necessary to proceed allowing Harvard to move into an improved position. At this point he said we will have to wait and see. In the meantime, he said the committee has discussed alternative courses of action but to maintain placement in the SRF funding queue you can not go out to bid until formal approval. Ashley indicated contacting our state representatives to assist. He said the critical cut off point is June 30th for funding approval and beyond that communities who do participate must meet further requirements by October 13th. Ashley is confident Harvard is an excellent position to meet the requirements for the October 13th deadline. He spoke about identifying back up plans if SRF funding is not approved to include possibly going back to the community with a modified plan. Lucy Wallace asked if a modified plan would include a change in the district area and he said no. He said if SRF funding is not approved the community will have to investigate alternative funding sources which may impact the cost to the town.

ENERGY ADVISORY COMMITTEE – Committee member Eric Broadbent attended the meeting to explain why they are recommending adoption of the stretch code and their plans to educate the public. He said the Massachusetts Board of Building Regulations and Standards (BBRS) approved an optional amendment to the 7th edition Massachusetts Building Code 780 CMR. This optional "stretch code" was developed in response to the call for improved local building energy efficiency in the state. Towns and cities may adopt as an alternative to the base energy efficiency requirements of 780 CMR and the forthcoming 8th edition to be based on the 2009 IECC (Massachusetts is required by the Green Communities Act of 2008 to adopt each new IECC edition within one year of its publication). The appendix, which includes both a residential and commercial stretch code, is designed to be about 30% more stringent than the 2006 IECC/ASHRAE 90.1-2004 and will go into effect in a few weeks. The appendix will function as a local option code and once it goes into effect, municipalities will be able to adopt it.

Broadbent explained adoption of the new code is another step toward Harvard becoming a Green Community which provides increased opportunities for renewable energy funding. He understands there is an abundance of information to consider if the town does adopt this code but the committee does not want the town to miss out on any funding opportunities. Ron Ricci invited Planning Board Chairman Joe Sudol to weight in on the subject on behalf of the Planning Board. Sudol stated the Planning Board did discuss the issue at their last meeting and unanimously voted against adding this request to the Town Meeting Warrant. He indicated there are too many outstanding questions and suggested it is not necessary for the town to adopt this to be considered as a Green Community. He said considering the significant impact to commercial construction bylaw changes may be required. Ron Ricci said the town should be cautious considering the impact to homeowners, town building inspector and contractors. All parties agreed there should be a meeting including the major stakeholders to discuss topic in length. Tim Clark said the town needs to look into this closely especially considering the significant savings the town has already seen with energy efficiency and the large capital projects coming up. Lucy Wallace suggested keeping the article on the warrant to maintain interest from the public. Ron Ricci indicated the building inspector would be attending a seminar in May on this subject.

FRUITLANDS CONTINUATION OF PUBLIC HEARING
Request to amend Entertainment & Liquor license conditions

Ron Ricci opened the hearing by stating 15 letters from the public were received in favor of the modifications and 4 opposed. He did make mention that 10 letters received in support were not direct neighbors of Fruitlands. At this time he invited members of the public in favor to come forward to speak.

Public in favor

Diane Newton, 182 Prospect Hill Road, said she is on the board of directors and is in favor of modifying the conditions to assist Fruitlands in generating more income. She said she is not troubled by the traffic because she walks all the time and feels most of the traffic is from commuters.

Ron Ostberg, 41 Warren Avenue, said he is on the board of directors as well as the Master Plan Committee for Fruitlands. He feels increased revenue from events is important to keeping the facility alive. Ostberg spoke about the marvelous picture of New England society that is celebrated at Fruitlands and feels the museum has always been a responsible citizen.

Tony Shaw, Prospect Hill Road, said Fruitlands is a wonderful asset to Harvard and is a good steward to wilderness. He feels the music is not noise and the increase in traffic shows Fruitlands is doing a good business.

Todd Brown, Littleton County Road, said he is a newly appointed member of the board of directors. He explained Fruitlands is fortunate to be a recipient of a trust but over time the trust has shrunk heavily so an increase in revenue will help with operating costs. He also mentioned the educational programs that benefit the children of Harvard and the huge resource the museum is to protecting land.

Susan Sullivan, 167 Prospect Hill Road, said she is a proud member of Fruitlands and feels they are a huge asset to the community.

Gary Gasser, 164 Prospect Hill Road, said he does not want to see the survival of Fruitlands jeopardized and feels the requests are reasonable.

Public against

Charles McVea, 121 Prospect Hill Road, said he is proud member of Fruitlands but said over the last 5 to 7 seven years the noise from weddings has become more and more intrusive. He suggests additional revenues go toward noise abatement so they can remain viable but be a good neighbor as well.

Irving Johnson, Madigan Lane, is supportive of Fruitlands but feels the direction over the last years is gearing more toward events with amplified music which is problematic.

Keith Cheveralls, 21 Quarry Lane, expressed his reluctance to stand and speak against Fruitlands because he does appreciate the establishment. He is hopeful a peaceful co-existence can be established. He also recognizes this as a tough issue for the BOS.

Deborah Skauen-Hinchcliffe, Still River Road, is quite concerned Fruitlands is expanding in the wrong direction. She indicated on the Attorney General's website it states gross contributions to be \$108,000 and gross assets to be around 12 million. She asks Fruitlands to allocate some funds toward sound abatement.

Bill Barton, 180 Prospect Hill Road, said he is concerned on how the existing license is being handled with respect to the direct neighbors. He said it should not be up to him to contact the police but up to Fruitlands to act as a good neighbor.

Selectmen questions to the applicant

Tim Clark asked Mr. Firment to review with him the modifications requested since two different versions have been given to the BOS. Ron Ricci said the newer version was submitted by him including Mr. Firment's requests with additional language. Clark understood the initial requests to be increase of events from 10 to 15, increase area to serve and sell alcohol within the total licensed premise, strike condition regarding balloons, and change language relating to police details. Clark asked Mr. Firment if he agreed with the revised language proposed by Mr. Ricci and he did not.

Peter Warren asked for clarity on condition 8 of the liquor license regarding the license premise. Firment confirmed they are not requesting to go beyond the 135ft area as indicated on the license. Warren also asked about the good neighbor noise policy referenced on their website and wondered what determines noise to them. Firment said noise until quantified otherwise is subjective and said the museum takes every reasonable stance possible under their control. Warren said noise is a concern to the neighbors and should be addressed. He asked what Fruitlands intends to do to control the noise. Firment said contracts clearly spell out immediate shut down if asked and if not adhering to request to lower music they will be shut down. If there is contact by the Police as to a complaint immediate action is taken. Warren commented to the unfairness of the public

stating noise concerns when there is no official record of this. He urged residents to monitor noise issues and act accordingly.

Lucy Wallace asked about the extension of the Sunday hours. Firment said the extension is to accommodate patrons during Sunday brunch. Wallace asked to refresh her memory on the police details. She understood the Police Chief was acceptable to increase the number of people present at an event where alcoholic beverages are served from 50 to 100 to require notification to the Police Chief for him to decide on a case by case basis. She said this did not require notification to the Town Administrator. Firment agreed and said all event calendars are provided to the Police & Fire Chiefs.

Marie Sobalvarro asked for clarity on the legality of the license premise. Firment confirmed the change is mainly to reflect premise as indicated on license and more importantly provide service to the tables located outside of the tent.

Peter Warren asked how far the 135ft line goes down the hill. Firment said the line does not go down the hill it stops at the front of the tent.

Ron Ricci asked if service is being provided outside of the tea room or tent will you also allow BYOB at the same time. Firment said BYOB is not allowed within premise it is restricted by the ABCC. Ricci asked if they would simultaneously allow liquor to be sold in the licensed premise and BYOB. Firment said yes they may serve dinner/snacks during the concerts in the tent. Ricci wondered how the employees would control the merge of the two separate areas. Firment said by careful watch.

Tim Firment stated the museum is an educational institution first and foremost and is hopeful the community is aware of this and does not focus on only the liquor and entertainment licensing. Ron Ricci said the real challenge for the board is to assist in providing harmony between businesses and neighbors. He suggested Mr. Firment do all he can to establish a good relationship between the museum and its neighbors.

Ron Ricci suggested closing the public input of the hearing. Lucy Wallace wanted to be sure questions can still be asked of the applicant. Tim Clark said there is no compulsion at this time to close the public hearing. The board members agreed to not close the public hearing formally but only allow the applicant to speak in response to questions as the board reviews the draft.

Deliberation

Common Victualler's All Alcohol Beverages License Conditions

The board reviewed the proposed changes and agreed to the following:

Condition 3 – change number of people present from 50 to 100

Condition 4 – delete town administrator and add or designee

Condition 7 – change Sunday hours from 1:00pm to 12:00pm

Lucy Wallace suggested allowing the hour for serving to start at 10:00am if the law changes.

Condition 8 – Ron Ricci expressed concern with the mix of BYOB and alcohol being served in the license premise. Marie Sobalvarro understood you can not restrict license premise but Tim Bragan clarified the board could to control sale of alcohol. Tim Clark said it is the responsibility of the operator to monitor this and there are consequences if violations occur.
Final condition reads: Alcoholic beverages shall not be sold or served outside of the licensed premises.

Condition 15 – delete

Condition 18 – delete

Condition 19 – delete

Condition 20 – delete approved by the chief of police

Entertainment License Conditions

Condition 7 – increase number of events from 10 to 15 band or other concerts.
Ron Ricci did express concern over extending the outdoor concert season due to lighting of the parking area as well as street. His concern is for public safety. Peter Warren suggested additional lighting if necessary. Firment said he felt this is not necessary.
change outdoor concert season from May 15th to April 15th and October 15th to November 15th. Lucy Wallace said if problematic this can be revisited. Peter Warren encouraged the public to complain if issues arise.

Condition 8 – match wording of condition 4 of liquor license conditions.

Attachment A (liquor license conditions)
Attachment B (entertainment license conditions)

On a Wallace/Sobalvarro motion, the board voted unanimously to the close public hearing.

On a Clark/Wallace motion, the board voted unanimously to approve the Fruitlands Museums, Inc. Common Victualler's all alcoholic beverages license conditions as modified.

On a Clark/Wallace motion, the board voted unanimously to approve Fruitlands Museums Inc., entertainment license conditions as modified.

PUBLIC COMMUNICATION –

Todd Brown, 279 Littleton County Road, spoke of his obligation to point out the condition of Littleton County Road. He said the neighborhood is very concerned with condition of the road. He said he is well aware of the budget constraints but asks for basic expectations to be considered.

MINUTES – On a Warren/Wallace motion, the board voted unanimously to approve minutes of 3/16 & 3/25, as presented.

SELECTMEN REPORTS –

Marie Sobalvarro said she continues to work with Steve Miller to finalize the 4th of July Committee.

Tim Clark gave an update on the Safe Routes to school program and stated the Walk to School Day will be held on May 5th. Tim Clark said the Volunteer Fair would be held on May 15th in Volunteers hall.

Ron Ricci presented a letter to be signed in support of the Farmers Market application for the Farmers' Market Promotion Project grant. On a Wallace/Clark motion, the board voted unanimously to approve endorsement of the letter.

In addition, Ricci presented a letter of thanks to the National Guard for their efforts to protect the dam at Bare Hill Pond. On a Clark/Wallace motion, the board voted unanimously to endorse the letter. On a Wallace/Clark motion, the board voted unanimously to approve acknowledgement to Fire Chief, Police Chief and DPW Director for their extraordinary work during that time.

TOWN ADMINISTRATOR REPORT –

Tim Bragan informed the board of a request from Lighttower Fiber Networks proposing conduit installations on Sherry and Eldridge Roads. He explained the task is required to connect Cisco's 2 campuses with a new fiber ring between 1414 Massachusetts Ave and 200/300 Beaver Brook Road in Boxboro. Bragan indicated a public hearing must be held prior to the board issuing a license. The board decided to hold a public hearing at their next meeting.

Bragan told the board he received a letter from resident Andrea Juchartz requesting the BOS send a letter supporting the demolition of the abandoned house located at 48 Finn Road. On a Clark/Sobalvarro motion, the board voted unanimously to submit letter in support of the request to Senator Jamie Eldridge and Representative Jen Benson.

Bragan said he received a request from the Village Nursery School to hang a banner over Ayer Road announcing the Kids Fair to be held on May 22nd. They also asked if the DPW could lend some trucks / equipment for the Touch-a-Truck portion of the event. On a Wallace/Sobalvarro motion, the board voted unanimously to approve the requests.

Bragan announced the Common Cause award the town has received for the website.

Bragan said the ABCC (Alcohol Beverages Control Commission) has approved the license requests for the Harvard General Store and the Grapevine. A memo has been sent out to the Building Inspector, Fire Chief, Police Chief and Board of Health to follow up on conditions that need to be met in order to issue the licenses.

Bragan said the Chapter 90 funds for 2011 are \$242,243.00.

Bragan asked the Selectmen if they would meet on school vacation week. The Selectmen agreed to the following changes to their standard meeting schedule:

Cancel April 20th and reschedule for April 27th.

Cancel May 4th & 18th and reschedule for May 11th & 25th

ENTERTAINMENT LICENSE FOR APPLE BLOSSOM FESTIVAL –

Tim Bragan explained an entertainment license must be issued to comply with current policies and procedures. On a Wallace/Sobalvarro motion, the board voted to hold a public hearing on April 27th.

(Wallace – Aye, Sobalvarro – Aye, Clark – Aye, Warren – abstain, Ricci – Abstain)

FINAL REVIEW AND APPROVAL OF TOWN MEETING WARRANT -

Tim Bragan presented the final version of the warrant. The board reviewed the warrant making minor comments. Lucy Wallace recommended removal of the local option room tax article considering properties in Devens can not be included. Ron Ricci and Peter Warren suggested the meals tax be removed as well for consistency. After further discussion the following motions were made:

On a Wallace/Clark motion, the board voted to remove article 42 local option room tax.

(Wallace – Aye, Sobalvarro – Aye, Clark – Aye, Warren – Nay, Ricci – Nay)

On a Warren/Ricci motion, the board voted to remove article 43 local option meals tax.

(Wallace – Nay, Sobalvarro – Nay, Clark – Nay, Warren – Aye, Ricci – Aye)

On a Clark/Sobalvarro motion, the board voted unanimously to approve the warrant as amended.

***** On a Clark motion, the Board voted unanimously by a roll call vote (Sobalvarro– AYE, Wallace – AYE, Ricci – AYE, Warren – AYE, Clark - AYE) to enter into executive session at 10:05pm, as authorized by Chapter 39, Section 23B of the Massachusetts General Laws, at a meeting for which 48-hours notice has been given, to discuss on-going union negotiations. Following the executive session, the Board will reconvene into open session, for the sole purpose of adjourning. ***

The meeting was adjourned at 10:45pm.