

**BOARD OF SELECTMEN
PLYMOUTH, MASSACHUSETTS**

February 24, 2004

The Selectmen held their weekly meeting on Tuesday, February 24, 2004, 6:30 p.m. at Town Hall, 11 Lincoln Street.

Present: Kenneth A. Tavares, Chairman
 David F. Malaguti, Vice Chairman
 Christopher R. Lombard
 David J. Rushforth, M.D.
 Richard J. Quintal, Jr. (arrived late)

 Pamela T. Nolan, Town Manager
 Mark D. Sylvia, Assistant Town Manager

MOMENT OF SILENCE

The Board observed a moment of silence in memory of Christopher Welsh and Ryan O'Rourke. Both youths were killed in an auto accident on State Road this past weekend. Chairman Tavares, on behalf of the Board, extended his sympathy to their families and also offered a prayer for Chad Correa the other passenger in the car who is presently in the hospital.

LICENSES

Vice Chairman Malaguti moved to approve the following new Common Victualler's License. Selectman Rushforth seconded the motion. Voted 4-0.

Common Victualler (New)

Bella Piazza Café and Pizzeria
15 Main Street
Teresa and Brian Mullin

Issuance of the above license is subject to the approval from the Building and Health Departments.

Vice Chairman Malaguti moved to approve the following Vehicle for Change. Selectman Rushforth seconded the motion. Voted 4-0.

LICENSES (continued)

Vehicle for Hire Change

Sea Breeze Transportation, Inc.
13 Eagle Hill Drive
Daniel Rowan

They have changed their vehicles to three (3) taxi and one (1) livery instead of all four taxi.

ADMINISTRATIVE NOTES

Responsible Contractor Bylaw – The Board approved the following changes to be made to the Responsible Contractor Bylaw, as recommended by Town Counsel and accepted by the petitioner:

- In section 2.A, the reference to “iii Section 1” should be changed to “in Section 2”
- The following sections shall be given headings as follows:
 3. FINES
 4. SEVERABILITY
 5. PERIODIC REVIEW

Town Counsel will also draft language to provide for non-criminal disposition of fines.

Minutes - Vice Chairman Malaguti moved to approve the minutes of February 17, 2004. Selectman Rushforth seconded. Voted 4-0 approved.

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW

ARTICLE 3: To see what action the Town will take under the provisions of G.L. c.44, §53E 1/2 regarding the establishment, annual re-authorization or renewal as the case may be of revolving funds.

Patrick Dello Russo, Director of Finance, explained that primarily this a housekeeping article required by Massachusetts General Law. Mr. Dello Russo explained that each year these funds have to go through an approval process before they can be utilized. Mr. Dello Russo referred to the spreadsheet provided to the Board. Mr. Dello Russo explained that this year the Council

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW (continued)

on Aging is requesting a new revolving fund to be established and that there is a memo supporting the reasons behind the request.

Vice Chairman Malaguti moved to recommend Article 3. Selectman Rushforth seconded. Voted 4-0 approved.

ARTICLE 8: To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money for the repair and/or purchase and/or lease and/or replacement of departmental equipment for the various departments substantially as follows or take any other action relative thereto.

Pamela Nolan, Town Manager read through all of her recommendations for Article 8. There were requests from the following Departments:

Department	Description	Cost
Clerk	Doc. Mgmt Software	\$ 11,337.00
DPW	Scag Mower	\$ 4,500.00
DPW	2,000 lb Lift	\$ 6,500.00
DPW	Rescue Boards	\$ 2,400.00
DPW	Rescue Kayak	\$ 625.00
DPW	Backboard	\$ 500.00
DPW	40" Plan Scanner	\$ 14,000.00
DPW	Solid Waste Containers	\$ 12,000.00
DPW	Solid Waste Compactor	\$ 12,000.00
DPW	Sander	\$ 4,500.00
Harbor Master	250 HP Motor	\$ 6,500.00
Library	Microfilm Reader	\$ 11,200.00
Police	Police Cruisers	\$ 228,906.00
Procurement/COA	Copier	\$ 9,400.00
Procurement/Various	Work Stations & Comp.	\$ 3,950.00

Selectman Lombard explained that he was troubled with the memo request from the Superintendent of Parks & Forestry regarding the transfer of funds from ATM 2001 and ATM 2002. Ms. Nolan explained that she would speak to the Superintendent about that specific portion of his memo because she doesn't feel it was relevant to this article. Ms. Nolan continued to read through every request and explained why she was recommending each one.

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW (continued)

Several Department heads were called upon to assist in explaining their respective requests.

Selectman Lombard questioned the disparity between the amount requested by Joe Ritz, Harbormaster, for a boat motor and the quote from Cape Marine. Mr. Ritz explained that since that quote they have exceeded the 500-mile usage allowance assumed at trade-in. Mr. Ritz said that this will affect the price of the new motor and he needed to account for that difference.

Vice Chairman Malaguti moved to recommend Article 8. Selectman Rushforth seconded. Voted 5-0 approved.

ARTICLE 16A:To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, or purchase, or otherwise, for open space purposes under the Community Preservation Program, a conservation restriction on a 83.39 acre parcel of land in the Town of Plymouth, as shown on Assessors Map 65, Lots 11a, 11b, 11c, 11d & 15A, 8 and Map 68, Lots 4b, and as funding therefore to raise and appropriate, transfer from available funds, transfer from the Community Preservation Fund, and /or borrow the sum of \$100,000.00 more or less pursuant to G.L. c.44B or any other general or special law for said acquisition, and to authorize the treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for the purpose, or take any other action relative thereto.

Bill Keohan, Chairman of the Community Preservation Committee, explained the CPC voted unanimously to recommend Article 16A. Mr. Keohan explained that this article would designate 1 million dollars from the open space account for the acquisition of the Talcox property on Ship Pond Road. Mr. Keohan explained that the owners have agreed to sell the 82.39 acres to the Town of Plymouth for 1 million dollars, even though it was appraised in October 2002 for 1.3 million. To secure the agreement a 100,000 promissory note would be required from the Town. Mr. Keohan explained that this property has ecological significance and is critical in connecting Myles Standish Forest to Ellisville Harbor.

Selectman Lombard asked Mr. Keohan if there were any easements that a 3rd party may have interest in. Mr. Keohan explained that they are still waiting for title work to come back. Vice Chairman Malaguti concurred with Mr. Keohan on the importance of this parcel.

Vice Chairman Malaguti moved to recommend Article 16A. Selectman Rushforth seconded. Voted 5-0 approved.

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW (continued)

ARTICLE 43: To see if the Town will vote to amend the Development Plan previously approved and adopted by the Town Meeting on June 7, 2000 and as previously amended by Special Permit dated May 8, 2001 and by Special Permit dated June 19, 2001 for The Pinehills Community located on and off of Old Sandwich Road, Beaver Dam Road, Clark Road and Long Pond Road in Plymouth, Plymouth County, Massachusetts, as more particularly described in said Development Plan (the "Pinehills Community"), by incorporating additional land into the Pinehills Community under and subject to provisions of the Development Plan, or take any other action relative thereto.

Selectman Rushforth asked Loring Tripp, Chairman of the Planning Board, if this Article would have an affect on the OSMUD. Mr. Tripp explained that it would add an additional 42 acres into the existing 350 acres of open space. Mr. Tripp also explained that the 42 would also have a conservation restriction put onto it as well. Selectman Lombard commented that this proposal looked like a zoning change. Mr. Tripp responded that this was a modification to a development plan, rather than a zoning change.

Vice Chairman Malaguti moved to recommend Article 43. Selectman Rushforth seconded. Voted 5-0 approved.

ARTICLE 44: To see if the Town will vote to amend the Town Bylaw, Chapter 23, Animals as it relates to the definition and prohibition of "banned" or "removed" dogs, leash penalties, unlicensed dog penalties and waste removal fines, or take any other action relative thereto.

Mary Ellen Burns, Chairman of the Bylaw Review Committee, explained that this article amends the fines in Chapter 23 of the Town of Plymouth "Animal Control" Bylaw. Additionally, new language regarding banned and removed dogs has been added.

Selectman Lombard asked when the new fines take effect. Ms. Burns responded that the new fines take effect upon renewal of the license. Mr. Lombard commented that he would like to see each and every occurrence enforced by the animal officers.

Chairman Tavares thanked the committee for their hard work. Vice Chairman Malaguti moved to support Article 44. Selectman Rushforth seconded. Voted 5-0 approved.

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW (continued)

ARTICLE 45: To see if the Town will vote to amend the Town Bylaw, Chapter 23, §23-11B, as it relates to kennel license fees and Chapter 23, §23-13, as it relates to kennel license regulations, or take any other action relative thereto.

Mary Ellen Burns, Chairman of the Bylaw Review Committee, spoke on this article. Ms. Burns explained that this article overhauls the kennel license section of the Animal Bylaw by defining kennels, increasing kennel fees, improving the application/enforcement process and providing an appeal process.

Selectman Lombard asked Ms. Burns who must comply with these changes and what is the window of compliance. Ms. Burns answered that everyone must comply upon renewal of their license. Selectman Lombard was also concerned with waste disposal in these kennels. Mr. Lombard also asked if the word "selectmen's designee" could be included in the language regarding the Appeal and Waiver section. Mr. Lombard also asked if there was a fee for inspection.

Paul McAlduff, Bylaw Review Committee member, explained that there is an initial inspection fee when the kennel first starts up and this fee should cover all additional inspections necessary. However, there are annual renewal fees as well. Mr. McAlduff also responded that they do not have a waste removal plan in the Bylaws.

Vice Chairman Malaguti asked if there was a provision for grandfathering existing kennels. Mr. McAlduff explained that all kennels must comply and additionally there is an appeal process as well, which is quite flexible. Selectmen Lombard and Rushforth believed that these new revisions would address current issues with some of the kennels. Selectman Rushforth moved to recommend Article 45 with the special language regarding Selectmen's designee. Selectman Lombard seconded. Voted 4-1 approved. Vice Chairman Malaguti was in opposition.

ARTICLE 2: To see if the Town will vote to transfer a sum of money to be added to funds already appropriated under Article 7 of the 2003 Annual Town Meeting for the purpose of supplementing departmental expenses, or take any other action relative thereto.

Patrick Dello Russo, Director of Finance presented Article 2. Mr. Dello Russo explained that the use of these funds will not alter the '04 Tax Rate. He explained that this revenue is from transfer funds and reserve balances from enterprise funds. Chairman Tavares read each transfer amount and its source.

Selectman Lombard asked if the new parking plan was adopted for July, could we remove this transfer from the request. Police Captain Charles Chandler

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW (continued)

explained that this money is needed for replacement meters and he has no way of knowing when the plan will take effect and he needs the money as soon as possible. Mr. Dello Russo responded that if these transfers were not utilized they would go back to their original sources. Selectman Lombard asked Paul Wohler, Utilities Superintendent, why there was such a surplus from Salaries. Mr. Wohler explained this was because of all the retirements and vacancies.

ARTICLE 3: To see if the Town will vote to raise and appropriate or transfer a sum of money to pay certain unpaid bills, or take any other action relative thereto.

This article was heard approximately 3 weeks ago. Vice Chairman Malaguti moved to recommend Article 3. Selectman Rushforth seconded. Voted 5-0 approved.

ARTICLE 4: To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money for the construction and/or repair and/or purchase and/or lease of buildings or equipment and/or for feasibility and other types of studies as follows:

Charles Chandler, Police Captain, appeared before the Board to discuss Article 4. Captain Chandler explained that each year the Plymouth Police Department appears before each Annual Town Meeting to seek authorization to expend a sum of money from the Parking Receipts fund to purchase replacement parking meters. Captain Chandler explained that this project has succeeded in removing from service about $\frac{3}{4}$ of the old mechanical meters as the meters are no longer in production and replacement parts are seldom available.

John Madden of the Finance Department asked the Board to take an additional vote on Article 4B regarding the Police Cruiser. Mr. Madden explained that the cruiser was involved in an accident and the insurance recovery exceeded 20K.

Vice Chairman Malaguti moved to recommend Article 4. Selectman Rushforth seconded. Voted 5-0 approved.

Vice Chairman Malaguti moved to recommend Article 4B. Selectman Rushforth seconded. Voted 5-0 approved.

ARTICLE 11: To see if the Town will vote to adopt a bylaw to establish a three member Board of Commissioners of Trust Funds appointed by the Board of Selectmen, or take any other action relative thereto.

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW (continued)

Patrick Dello Russo, Director of Finance explained that this article formalizes the process relative to the management of Trust Funds. Mr. Dello Russo explained that the Town has 16 trust funds totaling close to 1.2 million dollars. With its creation it would ensure that these funds are reviewed every year with the Town Treasurer as its custodian.

Mark Sylvia, Assistant Town Manager, explained that the Board could pursue at Town Meeting the option of having elected commissioners or appointed ones. Mr. Sylvia explained that Town Counsel advised that the Town could establish either an elected or appointed commission and explained the process that needs to be followed in either case. Selectman Lombard asked for some extra time to think about this decision. Chairman Tavares asked the Clerk to place this article on the agenda for next week.

ARTICLE 13: Airport non-aviation leases

Tom Maher, Airport Manager, explained that the Plymouth Airport Commission voted to request Town Meeting approval of a Home Rule Petition to the Massachusetts Legislature to allow the Plymouth Airport Commission to lease land on the Airport for a period of up to 40 years. Mr. Maher explained that this request is to clarify and reaffirm the previous April 2002 Town Meeting vote in which Town Meeting voted to allow the Airport Commission to lease land up to 40 years. The manner in which the previous town meeting approval was worded, inadvertently did not note that the Airport leases land to both aviation and non-aviation tenants.

Selectman Lombard asked if this was primarily a "housekeeping" issue. Mr. Maher responded that yes it was, as we must comply with the State's rules and regulations. Mr. Lombard also asked Mr. Maher if leases have to be transferred or if they have to be approved by the commission. Mr. Maher responded that they have to go before the commission.

Vice Chairman Malaguti moved to recommend Article 13. Selectman Rushforth seconded. Voted 5-0 approved.

OLD BUSINESS/LETTERS/NEW BUSINESS

Polar Plunge – Selectman Rushforth invited OCM Editor, Charlie Matheson, to take the plunge or pledge for the Town Team. Dr. Rushforth also thanked the Plantation for the use of their parking lot during the plunge. He also mentioned that there would be trolleys to shuttle people back and forth.

OLD BUSINESS/LETTERS/NEW BUSINESS (continued)

Complaint Database – Selectman Lombard requested an update on the Town's Complaint database.

Howland Street Parking Lot – Selectman Lombard requested an update on the Howland Street Parking lot. Mr. Sylvia informed Mr. Lombard that we have sent two letters to the owners and have received no response. Chairman Tavares explained that the area is owned by Compass Bank and they are in the process of being acquired by Sovereign Bank and this is not probably on their list of priorities right now.

Sewer Moratorium – Selectman Lombard asked for an update on the Town's sewer moratorium. Chairman Tavares explained that he, the Town Manager and the DPW Director met with the Attorney General to discuss this. Ms. Nolan responded that she just received a letter and they approved 150,000 gallons and she will be sending out another letter immediately requesting an additional 150,000 gallons.

Selectman Lombard moved to adjourn the meeting. Vice Chairman Malaguti seconded. Voted 5-0 to adjourn.

Lisa Conroy, Clerk