

**BOARD OF SELECTMEN
PLYMOUTH, MASSACHUSETTS**

January 27, 2004

The Selectmen held their weekly meeting on Tuesday, January 27, 2004, 7:00 p.m. at Town Hall, 11 Lincoln Street.

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

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

Chairman Tavares observed Selectmen Quintal and Rushforth's "Patriotic" attire in honor of the upcoming Superbowl.

PUBLIC COMMENT

Jordan's Polar Plunge – Kathryn McKenna, Plunge Committee Representative, accompanied by Jordan Hospital's Jordan the Bear, thanked the Board for last year's participation in Jordan's Polar Plunge. The Plunge is a dash into Plymouth Beach's icy waters to benefit the Jordan Hospital Club Cancer Center. The Plunge will take place at high noon on February 28, 2004. Ms. McKenna was overwhelmed with the generosity of last year's contributions.

Chairman Tavares offered a challenge to all town employees who would like to join the townhouse team. Selectman Rushforth reminded all that it is for a good cause as last year's plunge raised over \$55,000.00 for the center.

Plymouth Beach – Mr. Gene Lane asked the Board for their support of Plymouth Beach. Presently there exists a breach in the revetment and the Town has set aside 3.2 million dollars to fix it. Mr. Lane wanted to make sure that this money was used for its intended purpose and not for some other issue. Mr. Lane was concerned because some of the sand that was supposed to be used for the revetment has been used elsewhere.

Chairman Tavares explained that the Board does intend on using that money for anything other than Plymouth Beach, as was stated in a previous meeting.

MANOMET PUBLIC LIBRARY

Dinah O'Brien, Director of Community Resources, expressed her pleasure about the opening of the new Manomet Public Library at 12 Strand Avenue. Ms. O'Brien explained that the Library would open its doors to the public for the first time tomorrow January 28 at 9:00 a.m. Ms. O'Brien recognized all the individuals who worked very hard to bring this to fruition, including but not limited to the Board of Library Trustees and Library Staff. Chairman Tavares also recognized the Board of Library Trustees for their financial support.

Vice Chairman Malaguti asked Ms. O'Brien what the total cost of this endeavor was. Ms. O'Brien responded that it cost the town approximately \$600,000. Mr. Malaguti wanted clarification, as the information that was broadcast on a local television show was incorrect.

LICENSES

Selectman Malaguti moved to approve the following Vehicle for Hire Operators License renewals. Selectman Rushforth seconded the motion. Voted 4-0.

Vehicle for Hire Operators (Renewal)

Patriot Transportation

Jeffrey Furtado
22 Woodbine Drive

Arnold Williamson
21 Knight Avenue

Michelle Cushman
227 Standish Avenue

April Marie Allen
12 Bradford Street

Background checks and driving records show no basis for denial.

Selectman Malaguti moved to approve the following new Vehicle for Hire Operators Licenses. Selectman Rushforth seconded the motion. Voted 4-0.

LICENSES (continued)

Vehicle for Hire Operators (New)

Robert Cushman
12 Queen Drive

Michael Steele
20 Main Street

Background checks and driving records show no basis for denial.

The Selectmen also recognized the Vote to set the resident seasonal population as requested by the ABCC estimated at 82,800.

ADMINISTRATIVE NOTES

Right of Refusal - The Board waived the 120 day timeline and did not exercise its right to purchase the property identified as property of B & R Realty Trust, Plat 104, Lot 20D off Chipmunk Lane under the provisions of M.G.L Chapter 61, Section 8.

Sewer Bank Requests - The Selectmen granted the following Sewer Bank requests: Jordan Hospital, 275 Sandwich Street, Lot 24, Plat 26, operation & patient rooms, First phase (6,800 gallons) at \$10/gallon and Atlantic Properties, Henry A. Stout, 100 Armstrong Road. New 57,000 square foot building (2,270 gallons) at \$10/gallon

Constable Appointment - The Board appointed Russell F. Tinkham to an additional 3-year term as Constable in the Town of Plymouth.

Minutes - Vice Chairman Malaguti moved to approve the minutes of January 20, 2004. Selectman Rushforth seconded. Voted 4-0 approved.

STREET LIGHT ACQUISITION

George Woodbury of Smart Energy Consulting Services met with the Board in order to present a PowerPoint presentation on Street Light Acquisition for the Town of Plymouth. The presentation examined the economics of the acquisition. Mr. Woodbury mentioned that 35 towns have purchased their streetlights over the last three years. The Town of Plymouth would only have to pay \$1.00 for the acquisition.

STREET LIGHT ACQUISITION (continued)

Mr. Woodbury noted that the Town's present payment to the utility for its street lighting service is currently \$241,500 per year. Mr. Woodbury expounded that acquiring the streetlights could potentially save the Town about \$70,000 per year. Mr. Woodbury recommended using contractors in order to maintain the lights and over time it would provide a proven database that can be used to analyze other potential maintenance options. Mr. Woodbury also recommended switching the Mercury Vapor lighting to High Pressure Sodium in order to increase the potential savings.

Selectman Rushforth questioned whether purchasing our streetlights would adversely effect the ability to create a municipal-owned utility. Mr. Woodbury responded that it would not. Vice Chairman Malaguti asked Mr. Woodbury what the next step would be and how long it would take. Mr. Woodbury responded that we could own our lights by April and the next step would be a drawing up of the contract to purchase from NSTAR.

Selectman Quintal asked Mr. Woodbury if there were any special qualifications required to change the lights. Mr. Woodbury responded presently there were for changing the ballasts and the fixtures however not for the bulbs. Mr. Woodbury recommended using a licensed electrician as this could change for even the bulb replacement.

Chairman Tavares thanked Mr. Woodbury for this analysis and informed him that the Board would be meeting with George Crombie, DPW Director to discuss this further. Mr. Tavares would like Mr. Woodbury to come back in one week's time.

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW

ARTICLE 5: To see if the Town will vote to amend the Classification and Compensation Plans and the Personnel By-Law and Collective Bargaining Agreements contained therein, or take any other action relative thereto.

Ms. Patricia Flynn, Director of Human Resources, explained to the Board that this article will amend the Personnel Bylaw in 4 areas: Misc. Schedule D. Part-time, Temporary, Seasonal Employees, Section 7 Schedule A: Classification of Positions, Section 12: Paid Holidays and Section 31: List of Bargaining Agreements.

Ms. Flynn explained that these changes were very small, especially the hourly increases in the Recreation Department. Ms. Flynn deferred to Mr. Barry DeBlasio, Recreation Superintendent. Mr. DeBlasio explained to the Board that

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

Plymouth is one of the lowest paying towns for Lifeguards and Beach Employees. Mr. DeBlasio asked that we increase the rate for these part-time, seasonal employees so we may be competitive with the other towns and not lose employees to them.

Selectman Quintal asked Mr. DeBlasio if the fees for beaches could pay for the staff's increases. Mr. Quintal also didn't understand why every year this is brought up. Mr. DeBlasio said that we would need a revolving account for this and Ms. Flynn explained that because these are not union positions, they have to come before the Board every year.

Selectman Lombard explained that he wouldn't support this article as all of our town employees received only a 1-½ % increase and these increases equate to more than 1 ½%.

Ms. Flynn explained her support for Barry because she mentioned that it is about competitive pay and also about public safety. Ms. Flynn mentioned that it was important to have people on the beaches who can respond to emergencies. Mr. DeBlasio also mentioned that many of the lifeguards have to have several certifications and should be paid a competitive rate.

Selectman Rushforth mentioned that his children worked as lifeguards in the Town but decided to go on Cape because the pay was higher.

Selectman Lombard asked if the Board could take this article in 4 separate votes.

Vice Chairman Malaguti moved to recommend the "contract" section and Selectman Rushforth seconded. Voted 5-0 Approved. Vice Chairman Malaguti moved to recommend the "beaches" section and Selectman Rushforth seconded. Voted 3-2 approved, with Selectmen Lombard and Quintal in opposition. Vice Chairman Malaguti moved to recommend the "amendments" section and Selectman Rushforth seconded. Voted 5-0 Approved. Vice Chairman Malaguti moved to recommend the "holiday" section and Selectman Rushforth seconded. Voted 5-0 Approved.

ARTICLE 12: To see if the Town will vote to raise and appropriate or transfer a sum of money to fund the Town Promotion Fund pursuant to Chapter 4 of the Acts of 1993, or take any other action relative thereto.

Mr. Lee Hartmann, Director of Planning and Development, explained to the Board that this article deals with the Town Promotion Fund. Mr. Hartmann explained that the total funding to be approved for the Town Promotions budget

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

for FY05 is \$186,090, which is 45% of the total Hotel/Motel Tax. Mr. Hartmann explained that this represents a \$12,250.00 reduction from last year.

Chairman Tavares abstained from voting. Selectman Malaguti moved to recommend Article 12 as presented. Selectman Rushforth seconded. Voted 4-0-1 approved.

ARTICLE 16: To see if the Town will vote to hear and act on the report of the Community Preservation Committee on the Fiscal Year 2005 Community Preservation budget and to appropriate from the Community Preservation Fund a sum of money to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for Fiscal Year 2005; and further to reserve for future appropriation amounts as recommended by the Community Preservation Committee: a sum of money for the acquisition, creation and preservation of open space excluding land for recreational use, a sum of money for acquisition, preservation, and rehabilitation of historic resources, and a sum of money for the creation, preservation and support of community housing, or take any other action relative thereto.

Mr. Bill Keohan, Chairman of the Community Preservation Committee, appeared before the Board, regarding this article. Mr. Keohan explained that this article is a recommendation to set aside the Community Preservation Act (CPA) account for Fiscal 2005.

Chairman Tavares asked Mr. Keohan if the Board needed to vote separately on this article and on the article regarding the Hedge House also contained in their packets. Mr. Keohan responded in the affirmative that Article 7 needs a signature from the Chairman of the Board.

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

ARTICLE 24: To see if the Town will vote to authorize the Town of Plymouth to acquire by gift, property located off Deerfield Avenue in White Island Lake Shores shown as Lot 1-445 of Assessor's Map 124, containing approximately .14 acres, or take any other action relative thereto.

Mr. Lee Hartmann, Director of Planning and Development, asked the Board to recommend this article which allows the town to accept, as a gift two parcels of land on Assessors' Map 124.

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

Selectman Lombard asked if these parcels have clean title. Mr. Hartmann responded that they did.

Selectman Lombard moved to recommend Article 24. Selectman Rushforth seconded. Voted 4-0 approved.

ARTICLE 29: To see if the Town will vote to designate as Town Forest those portions of a parcel of Town-owned land shown as Lot 1 on Assessors Map 89 A and known as the Town Forest, and excluding those portions of said parcel currently used in conjunction with the Plymouth Community Intermediate School, and those portions currently used or reserved for future use as rights-of-way and utility easements, as shown on a plan to be approved by the Board of Selectmen and thereafter, placed on file with the Town Clerk, or take any other action relative thereto.

Mr. Lee Hartmann, Director of Planning and Development reappeared before the Board regarding this article. Mr. Hartmann explained that in his prior appearance it was decided that two issues needed to be resolved after speaking with Town Counsel: possible easements and regulations, specifically hunting. Mr. Hartmann spoke to Counsel and it was decided that the language regarding article 29 be changed to include easements and specific regulations. Mr. Hartmann explained that the Board could set these regulations by designating themselves as the ruling body and the Town Forest Committee as the advisory committee.

Selectman Lombard asked Mr. Hartmann about the benefits of this article. Mr. Hartmann explained that it would allow us to preserve the Town Forest land and would make us eligible for a 1.9 million-dollar grant from the State. Vice Chairman Malaguti asked Mr. Hartmann if there were deed restriction within the Town Forest. Mr. Hartmann responded that there were. Mr. Malaguti said it is important to preserve the Town Forest. Mr. Lombard responded that he is inclined to keep this for municipal use but he will support it. Selectman Rushforth moved to recommend Article 29. Chairman Tavares seconded. Voted 5-0 approved.

ARTICLE 30: To see if the Town will vote to renumber and recaption the Zoning Bylaw of the Town by (a) designating the Zoning Bylaw as Chapter 125 of the new Town Code; (b) renumbering each section of the Zoning Bylaw accordingly; (c) inserting section titles therein; (d) and updating internal references to reflect the new numbering system, all as set forth in the document on file in the office of the Town Clerk entitled "Town of Plymouth Massachusetts Draft" dated December 2003, prepared by General Code Publishers, or take any other action relative thereto.

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

Mr. Lee Hartmann, Director of Planning and Development, explained that this article is way overdue. Mr. Hartmann explained that the Town has made hundreds of amendments to the current zoning bylaw originally adopted in 1973. Additionally, Mr. Hartmann mentioned that the document has been retyped and translated into several different computer formats. Mr. Hartmann explained that the document has been reviewed, compared them to the current language and revised as necessary. Vice Chairman Malaguti asked Mr. Hartmann if this document replaces his copy in its entirety. Mr. Hartmann responded that yes it did.

Vice Chairman Malaguti moved to recommend Article 30. Selectman Rushforth seconded. Voted 5-0 approved.

ARTICLE 36: To see if the Town will vote to amend its Zoning Bylaw Zoning Map #1 (Plymouth Quadrant) by changing the zoning designation of land located on Christa McAuliffe Boulevard as shown as Lots 14K – 118A, 14K – 120A, of the Assessors' Map 103, and that portion of Christa McAuliffe Boulevard abutting the parcel to the center line of the right-of-way from Industrial (LI) to Mixed Commerce (MC), or to take any action relative thereto.

Mr. Lee Hartmann, Director of Planning and Development, explained to the Board that this article would rezone the above-mentioned area along Christa McAuliffe Boulevard from light industrial to mixed commerce. The change will adjust the menu of potential land uses allowed on this site. The Mixed Commerce District includes uses that are more commercial in nature than those provided for in the Light Industrial category. Mr. Hartmann mentioned that this was supported by the Planning Board 4-0.

Chairman Tavares explained that this area was referenced in the New England Real Estate Journal as a 100 million-dollar area.

Selectman Lombard mentioned that rezoning this area was a good idea.

Vice Chairman Malaguti moved to recommend article 36. Selectman Rushforth seconded. Voted 5-0 approved.

ARTICLE 41: To see if the Town will vote to amend the Zoning Bylaw, Zoning Map #1 (Sagamore Quadrant), by changing the zoning designation of land on State Road shown as a portion of lots 6-8, 6-3, 6-6, and 1B2 on Assessors' Map 54 from Mixed Density Residential (R-20MD) to General Commercial (GC) and by changing a portion of lots 2B4, 3-1, and 3-2 on Assessors' Map 54 from General

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

Commercial (GC) to Mixed Density Residential (R-20MD) (see attached plan), or take any other action relative thereto.

Mr. Lee Hartmann, Director of Planning and Development, explained to the Board that this article did two things. The first thing it did was rezone the area behind Geoffrey's Restaurant from Mixed Density Residential to General Commercial. This would allow for a parking lot behind the restaurant. The second thing it did was to rezone approximately ½ acre of land from General Commercial to Mixed Density Residential. Without this change lot 2B4 is unusable because it does not have access through residentially zoned land.

Selectman Lombard explained that he did not want a curb cut in that area. Mr. Hartmann assured him it was not possible because of the bylaw.

ARTICLE 42: To see if the Town will vote to amend the Zoning Bylaw, Zoning Map #1 (Plymouth Quadrant), by changing the zoning designation of land on Summer Street shown as a portion of Lot 1-1 and all of Lots 6-2 on Assessors' Map 101 from Arterial Commercial (AC) to Mixed Density Residential (R-20MD) (see attached plan), or take any other action relative thereto.

Mr. Lee Hartmann, Director of Planning and Development, explained to the Board that this article sought to rezone land (approximately 1 acre) owned by Lighthouse Cove, LLC from Arterial Commercial to Mixed Density Residential. The original zoning line in this area was an arbitrary line drawn 1000 feet from the centerline of Route 44. Mr. Hartmann explained that since that time, Shaw's and K-Mart sites have been developed leaving this area as unusable commercial land.

Vice Chairman Malaguti moved to recommend article 49. Selectman Rushforth seconded. Voted 5-0 approved.

ARTICLE 49: To see if the Town will vote to adopt Responsible Contracting Language on all publicly funded construction projects greater than \$750,000 in the Town of Plymouth.

Mr. Scott Gustafson, a local contractor, asked for the support of the Board regarding this article. Mr. Gustafson explained that the State is trying to give municipalities more power to enforce the laws governing contractors. Mr. Gustafson explained that the Board and Town Meeting members have already heard this article and the language has not changed.

Ms. Karen Courtney, Director of the Massachusetts Foundation of Fair Contracting explained that many other towns already have this bylaw in place.

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

Ms. Courtney said that they are trying to make sure that the towns receive the lowest responsible and eligible bidder. Ms. Courtney mentioned that it is good to have common language for all contractors up for bid. It will allow you to weed out those who do not want to be revealed if their practices are not honorable.

Chairman Tavares asked Mr. Mark Sylvia, Assistant Town Manager, if the language in this document was the same as last year. Mr. Sylvia responded in the affirmative.

Selectman Rushforth asked Ms. Courtney why this doesn't go to General Assembly for a decision. Ms. Courtney replied that it works better with the individual towns, as they will own this ordinance. Mr. Rushforth mentioned that he couldn't support this after reading Ms. Pamela Hagler's memo in opposition. Mr. Rushforth commented that we were not prepared for the additional responsibilities this would bring and this would also reduce the number of bidders who would work for the Town.

Chairman Tavares explained that he would support it because of what happened at Plymouth South Middle School. Selectman Lombard agreed with Mr. Tavares.

Vice Chairman Malaguti moved to recommend article 49. Selectman Lombard seconded. Voted 4-1 approved. Selectman Rushforth voted in opposition.

OLD BUSINESS/LETTERS/NEW BUSINESS

Plymouth Area League of Women Voters – Selectman Lombard spoke about his attendance at this meeting. Mr. Lombard explained that he went there as a citizen and not as a Selectman. Mr. Lombard was upset when he heard that the Town ran out of Emergency Preparedness Calendars and many residents were very upset. Mr. Lombard wanted to be informed that they had a shortage. Mr. Lombard also mentioned the lease for the Obery Street Building should have been signed. Lastly, Mr. Lombard mentioned that he was upset at not being informed by the Chairman of the Nuclear Matters Committee that there were issues with mission and/or responsibilities. Mr. Lombard mentioned that this is a Selectmen's committee and they should be kept informed at all times.

Chairman Tavares asked Selectman Lombard how he would like to proceed. Mr. Lombard explained that he would like the Chairman to tell the Board what he would like to do. Mr. Tavares explained that the Board needs to tell them what their responsibilities are and what their charge is. Mr. Lombard will call other towns to see what their committee charge is.

Executive Session – Vice Chairman Malaguti moved to go into executive session following Massachusetts General Laws, Chapter 39, Section 23B, paragraph 3, to discuss litigation, and paragraph 3 to discuss collective bargaining. Selectman Rushforth seconded the motion. Voted 5-0 by roll call - Selectmen Malaguti, Lombard, Rushforth, Quintal, and Tavares.

The Selectmen did not return to public session.

Lisa Conroy, Clerk