

**BOARD OF SELECTMEN
PLYMOUTH, MASSACHUSETTS**

January 6, 2004

The Selectmen held their weekly meeting on Tuesday, January 6, 2004, 7:00 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.

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

WASTEWATER UPDATE

Mr. Roy Wood from US Filter Operating Services explained to the Board that the treatment plant's nitrogen levels have been in compliance for eight straight months. Mr. Wood commented that the staff is doing a great job maintaining those levels.

Vice Chairman Malaguti explained to Gary Frizzell, Wastewater Coordinator, that there has been a noticeable odor coming from the plant on a couple of occasions. Mr. Malaguti's understanding was that the septage haulers were supposed to back into the building and close the doors when they discharge their loads. Mr. Frizzell responded that the plant is in the process of installing odor canisters to help control the odors, but gravity is to blame for the odors because the septage tank is lower than the hose that discharges the septage. Selectman Lombard inquired as to why there are odors present now and not before. Mr. Frizzell explained that there were always occasional complaints from Agway.

LICENSES

Selectman Malaguti moved to approve the following licenses renewals and the Sunday Sales for Package Stores. Selectman Rushforth seconded the motion. Voted 5-0.

LICENSES (continued)

Pawnbroker (Renewal)

Peggy's Pawn Shop
37 Court Street
Edward McCarthy

Issuance of the above license is subject to receiving the bond and fee.

Sunday Sales for Package Stores

Pioppi's Package Store, Inc. d/b/a Pioppi's Package Store
Syeda Chawdhury d/b/a Tedeschi's
South Street Package Store Inc. d/b/a Mayflower Food and Spirits
Karagosian Corp. d/b/a Plymouth Liquors
Dennis McNicholas d/b/a Plaza Package Store
Verc Enterprises, Inc. d/b/a Verc Exxon
TMCC Inc. d/b/a Bradfords Package Store
Richard's Wine and Spirits
Roger's Supermarket d/b/a Luke's Liquors
Mayflower Package Store
Perry's Market
Joseph Chahine d/b/a The Phoenician

Common Victualler (Renewals)

McDonalds of Plymouth
Shipside of the Coast d/b/a Fat Mike's Diner
Minerva's Pizza House
Jubilee Catering, Inc.

Auto Dealer Class II (Renewal)

Levi's and Sons Gulf, Inc.
102 Court Street

Jayne Handscom d/b/a Lou Winz Auto Sales
339 Lunns Way

Baker's Auto
6 Camelot Drive

LICENSES (continued)

Selectman Lombard moved to approve the Change of Manager (Liquor License) for Martha's Galley Inc., d/b/a Martha's Galley, 179 Court Street. Selectman Rushforth seconded the motion. Voted 5-0.

Selectman Malaguti moved to approve the closing of Martha's Galley, Inc. from January 1, 2004 until January 14, 2004 for vacation. They will reopen on January 15, 2004. Selectman Rushforth seconded the motion. Voted 5-0.

Chairman Tavares responded that we need to get these closing requests ahead of time not after or while they are occurring.

Selectman Malaguti moved to approve one petition **NSTAR 03-38** covering the installation of one (1) new pole location on Industrial Park Road. Construction is necessary to service a new Commercial Facility at 100 Armstrong Road Ext. Selectman Rushforth seconded the motion. Voted 5-0.

Selectman Malaguti moved to approve the Renewal Certification for ABCC. This is an amended renewal certification listing licensees who failed to renew for 2004. Selectman Rushforth seconded the motion. Voted 5-0

Selectman Malaguti moved to approve the following Vehicle for Hire Operator Licenses. Selectman Rushforth seconded the motion. Voted 5-0.

Alfred Turner
11 Sunset Road
Kingston
Mayflower Citiservices

Robert Swimm
845 Federal Furnace Road
Plymouth
Central Transportation

John James Toomey III
94 Old Colony Ave. Apt. 3
Quincy
Mayflower Citiservices

ADMINISTRATIVE NOTES

Tree City USA - The Board designated the Tree City USA forum at Memorial Hall on April 8, 2004 as a town sponsored event.

No Place for Hate Committee - The Board appointed Ms. Roberta Martino to the No Place for Hate Committee.

Committee Dissolution - The Selectmen dissolved the Housing Partnership and the Plymouth Industrial Development Financing Authority. Both Committees have been inactive for a number of years and their duties assumed by the Affordable Housing Committee and the Fair Housing Authority respectively.

Coastal Nonpoint Source Grant Program - The Board chose to support the Coastal Nonpoint Source Grant Program (Coastal NPS), as recommended by the Department of Planning and Development.

Selectman Lombard inquired if there was any cost associated in case we were the host of this program. Lee Hartmann, Director of Planning and Development, assured the Selectman there were no fees associated with this program.

Minutes – The Board approved the minutes of December 16, 2003.

OBERY STREET BUILDING

Chairman Tavares thanked Representative Thomas J. O'Brien for his help with securing the new Emergency Preparedness Headquarters location at the Obery Street Building. Mr. Tavares stated that the Town and Entergy finally reached a contract agreement.

HARBOR FEES HEARING POSTPONED UNTIL 7:45 P.M.

Chairman Tavares started to read the Harbor Fees Hearing Notice when he noticed that it was posted for 7:45 p.m. in the paper, and posted in the docket for 7:20 p.m. Mr. Tavares explained that because it is a public hearing it should be held at 7:45 p.m. as stated in the local paper.

TOWN MEETING - APRIL 3, 2004 - ARTICLE REVIEW

Article 32 - To see if the Town will vote to amend its Zoning Bylaw by deleting Section 312 - "Bonus Incentives" 207 (Section 205-30 of the reformatted Zoning Bylaw) and the associated definitions, procedures, and schedules, or take any other action relative thereto.

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

Lee Hartmann, Director of Planning and Development, explained that they are looking to delete this section of the bylaw, as it was never really enforced. Selectman Lombard asked Mr. Hartmann why it shouldn't remain there and Mr. Hartmann responded that if we enforced it then it could create some issues. The Selectman voted (5-0) to support Article 32.

Article 33 - To see if the Town will vote to amend its Zoning Bylaws, by creating Section 401.29 - "Village Open Space Development (VOSD) 207 (Section 205.66 of the reformatted Zoning Bylaw) to allow by special permit subject to Environmental Design Conditions varying unit types, lot sizes, lot widths and alternating building setbacks in the R25, R20-SL, R20-MD, and R20-MF Districts to provide meaningful open space within Village Service areas or take any other action relative thereto.

Lee Hartmann, Director of Planning and Development, explained that this article would allow you to put houses on smaller lots, allowing for more open space and also allows for good planning in those sites. The Selectmen voted (5-0) to support Article 33.

Article 40 - To see if the Town will vote to amend its Zoning Bylaw, Zoning Map #1 (Plymouth Quadrant) and Zoning Map #2, by changing the zoning designation of land on Court Street shown as a portion of Lot 59B-1 on Assessors' Map 6 from Residential Multi-family (R-20MF) to General Commercial (GC), or take any other action relative thereto.

Lee Hartmann, Director or Planning and Development, explained that this article would allow for a rezone from residential land to commercial land. This land is needed to provide for a modest amount of additional parking to service the existing building as well as a proposed 2000 square foot addition. The Selectmen voted (5-0) to support Article 40.

Chairman Tavares asked Mr. Hartmann about Article 29 also listed on the docket. Mr. Hartmann explained that it could be discussed with the Town Forest item. Selectman Lombard asked Mr. Hartmann if this article was going to go to town meeting. Mr. Hartmann responded that it was.

Article 4 - To see what action the Town will take pursuant to Chapter 173 of the Town bylaws regarding the formation, reformation, organization, continuation or discharge of existing committees created by vote of Town Meeting. Mark Sylvia, Assistant Town Manager, asked the Selectmen to allow the Cedarville Steering Committee to continue for review in three years at the 2007 Annual Town Meeting. The Selectmen voted (5-0) to support Article 4.

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

Article 10 – To see if the Town will vote to raise and appropriate or transfer a sum of money to the Unemployment Compensation Fund, or take any other action relative thereto.

Mark Sylvia, Assistant Town Manager, asked the Board to recommend the appropriation of \$20,000.00 to the Unemployment Compensation Fund. This amount represents an average yearly expenditure for Fiscal Years 2001-2004. The Selectmen voted (5-0) to support Article 10.

Article 13 - To see if the Town will vote to appropriate a sum of money from available funds as the state's share of the cost of work under G.L. c.90, §34 (2)(a) of the Massachusetts General Laws, or take any other action relative thereto.

Saeed Kashi, Director of Engineering, explained that this article authorizes the Town to accept funds from the state under Chapter 90. The Selectmen voted (5-0) to support Article 13.

Article 11 - To see if the Town will vote to raise and appropriate or transfer a sum of money to fund a household hazardous waste collection day or other activity, or take any other action relative thereto.

James Pierson, Fire Chief, explained that he is requesting 15,000 this year as there has been a rise in the incidents involving illegal dumping as well as an increase in pass thought fees by federal agencies to provide funding for large clean up sites. Selectman Lombard responded that he was hesitant because this should be an enforcement issue. Mr. Lombard mentioned that we are asking the taxpayers for more money instead of enforcing this law. Mr. Lombard asked if anything had been done to sponsor this event or appropriate funds from solid waste. Chief Pierson was not aware of any sponsorship and as far acquiring money from solid waste, that is a very difficult task. Pamela Nolan, Town Manager, responded that this solid waste fund is a relatively new fund and not really ready as of yet. The Selectmen voted (5-0) to support Article 11.

LIQUOR HEARING – CATORIMA D/B/A PILGRIM WINE AND SPIRITS

Chairman Tavares read the hearing notice from the local periodical and declared the hearing open.

Mr. Edward Angley, Counsel Representing the Petitioners Richard and Mary Grafton of Catorima, Inc. d/b/a Pilgrim Wine & Spirits, explained that the petitioners intended to have a store with fine lines of food and a wide variety of

LIQUOR HEARING – CATORIMA D/B/A PILGRIM WINE AND SPIRITS (continued)

wines. Mr. Angley also mentioned that this establishment would also provide for jobs for town residents. Mr. Angley mentioned that with the construction of a new hotel, this full service package store would be beneficial to the hotel guests.

Mr. Angley also mentioned that in the initial hearing it was mentioned that this package store was too close in proximity to another local package store, Mayflower Food and Spirits. Mr. Angley pointed out that yet another package store, Bradford's Liquors, located at Jaybeez Corner is just as close to Mayflower as Pilgrim Wine and Spirits would be.

Mr. Todd Serafina, the son-in-law to the petitioners, passed out a pamphlet explaining the wines they will sell and the classes and gift baskets they would offer. Mr. Serafina mentioned that the store would bring something different and offer a better selection to this town.

Mr. David Gilvar, President of Viking Development and would-be landlord of the petitioners, believed that Catorima would round out the synergy of the plaza. Mr. Gilvar felt that the petitioners would be excellent tenants.

Mr. Loring Tripp, Chairman of the Planning Board, commented that he felt the Grafton's would be excellent neighbors for the town.

Chairman Tavares declared the hearing closed.

Selectman Rushforth initiated the discussion with an explanation of why he initially voted against the opening of another liquor store. Mr. Rushforth stated that he thought we only had one license left to issue for the entire town and since Catorima was in close proximity to another local liquor store he felt it could be utilized in a more appropriate location. Mr. Rushforth said that he now understands there to be 17 total licenses allowed for the town and therefore with the issuance of this one, 3 still remain available.

Selectman Lombard expressed concern because he recalled a previous liquor hearing where the Board denied the applicant, the decision was appealed and the town was advised to let it go through the appeal process. Mr. Lombard didn't understand why in this instance we were not allowing it to just go through the appeal process. Chairman Tavares explained it was because The Board voted for another hearing.

LIQUOR HEARING – CATORIMA D/B/A PILGRIM WINE AND SPIRITS (continued)

Selectman Rushforth made a motion to grant a license to Catorima Inc., Selectmen Quintal seconded the motion. Voted 3-2 approved. Selectmen Lombard and Malaguti voted in opposition.

HARBOR FEES HEARING

Chairman Tavares explained that the Board would not vote or make any decisions this evening. Mr. Tavares explained that this hearing is just informational.

Chairman Tavares, on behalf of the Board, expressed his sympathy to the Jesse family on the passing of Ted Jesse. Mr. Tavares explained that he would be missed.

Mr. Lee Hartmann, Director of Planning and Development, explained that this report was a collaborative effort of the Finance Department, the Harbor Committee and the Planning Department. Mr. Hartmann gave a PowerPoint presentation and explained that the proposed changes to harbor/wharf fees have occurred due to the poor condition of the T Wharf and the need for improvements. Mr. Hartmann explained that the improvements would include dredging, the expansion of mooring areas and the maintenance of the harbor infrastructure. Consequently, these improvements would implement user fees for commercial fishing boats, passenger boats and charter boats who utilize the town wharf and it could open up town wharf space for lease as well. Mr. Hartmann explained that so far the Town has resurfaced the Town Pier, funded roads and sidewalks, renegotiated leases and applied for 3 million in State Funding for the T Wharf improvements. Mr. Hartmann explained that if nothing is done to improve its condition, then it could mean the complete closure of the wharf. Mr. Hartmann presented pictures of the wharf's poor condition. Mr. Hartmann said the State is fully committed to this project. Mr. Hartmann explained that the proposed fee changes originated from Fort Point Associates, the town's waterfront consultants and the Harbor Committee. Mr. Hartmann further explained that these fees would be phased in over 4 years as to lessen the impact on the fisherman and passenger/charter boat owners.

Mr. Al Saunders, Chairman of the Plymouth Harbor Committee, explained that these fees were necessary in order to preserve the harbor area.

Several fishermen, lobstermen, and businessmen of the town wharf spoke in opposition of the new fees. They explained why they did not want the open

HARBOR FEES HEARING (continued)

areas of the wharf to go up for bid and why they felt these fees were going to drive them out of business.

Chairman Tavares thanked everyone for their comments and declared the hearing closed.

WW SITE 101 LAND SWAP

Attorney David Delaney, representing Mark Investments, drafted a motion for the Board regarding the Walgreen's Project/Site 101 Land Transfer. The land transfer included the acquisition of a 25,946 square foot parcel of land, site 101, which was originally slotted for the Town's wastewater treatment facilities plan. In exchange for this parcel of land, Mark Investments would offer an adjacent 10,250 square foot parcel. This matter was the subject of Articles 26, 27 and 28 at the Spring 2003 Annual Town Meeting.

Mr. Mark Sylvia, Assistant Town Manager, explained that additional language has been added to the motion that provides the Selectmen with the ability to require conditions, terms and provisions, as they deem appropriate and without limitation. Mr. Sylvia explained that upon approval, the Town Manager's Office will enter into negotiations with Mark Investments for a land conveyance agreement and the final agreement will be presented to the Selectmen for their signature. Chairman Tavares asked Mr. Sylvia if this motion had been properly reviewed by Counsel. Mr. Sylvia responded that after the Board has voted to proceed with negotiations, he would have Counsel look at the motion. Selectmen Malaguti made a motion to proceed with negotiations and Selectmen Lombard seconded. Voted 5-0 approved.

TOWN FOREST

Mr. Lee Hartmann, Director of Planning and Development, and Mr. Michael Conrod of the Conservation Commission met with the Board to discuss the review and completion of a conveyance of a conservation restriction on the Town Forest, as authorized by Article 26 or the 2001 Fall Annual Town Meeting. Mr. Hartmann explained that this process of review regarding the various acquisitions that have occurred to the Town Forest began in 1998. Mr. Hartmann mentioned that during this review they found that in some cases the Town did not clearly define the intent to acquire this land for Town Forest purposes. Mr. Hartmann requested two things from the Board. The first thing was authorization to proceed with this conveyance and the second thing was a recommendation of support for the town meeting article.

TOWN FOREST (continued)

Selectman Lombard asked Mr. Hartmann if this restriction would prohibit hunting. Mr. Hartmann responded that he was unsure because it would fall under the conservation commission and it could be a term of the restriction. Mr. Hartmann added that the Board might want to put a provision or a condition on this conveyance. Chairman Tavares responded that the Board would like to know the opinion from Counsel before we take the vote in case it restricts hunting. Tom Mahoney, Chairman of the Open Space Committee explained that hunting would be allowed under a conservation restriction. Mr. Tavares requested that Mr. Hartmann seek Counsel's advice regarding the law on conservation land. Mr. Hartmann will make certain Counsel is advised. Mr. Tavares then asked Mr. Hartmann what the next step was and what was necessary to proceed. Mr. Hartmann mentioned that the State's Challenge Grant would provide the town with an additional 1.9 million dollars if this were approved. Selectmen Lombard, Malaguti and Quintal agreed that this area should be preserved. Mr. Lombard also mentioned that Mr. Hartmann should look at an easement for those residents on Drew Road who needed utility services through the Town Forest. Mr. Hartmann agreed with Mr. Lombard and will inform engineering of this. Mr. Tavares mentioned that it is the intent of the Board to proceed if this hunting provision is listed on this conveyance. Mr. Tavares asked Mr. Hartmann if Article 29 is synonymous with this conveyance. Mr. Hartmann responded that they are the same. The consensus of the Board is supportive of this article.

OLD BUSINESS/LETTERS/NEW BUSINESS

Guardrail on Newfield Street – Vice Chairman Malaguti stated his concerns over the article in the local paper regarding a family whose home has been damaged many times over the past few years due to a treacherous curve in the road. According to the local paper, the tenant has sought support from the Town for a guardrail for the last 4 years to no avail. Chairman Tavares explained to Mr. Malaguti and the Board that Mr. Sylvia is presently working on this issue. Mr. Sylvia responded that Mr. Saeed Kashi, Director of Engineering and Mr. Paul Balboni, Operations Superintendent, have been working on this issue as well.

Emergency Drills - Selectman Lombard received a letter from Doug Hadfield, Emergency Management Director, regarding two 6- hour emergency preparedness drills for town employees. Mr. Lombard wanted to know if the town was going to be reimbursed for the town employees' time. Chairman Tavares explained that we needed to be prepared for any and all emergencies with or without the plant.

OLD BUSINESS/LETTERS/NEW BUSINESS (continued)

End of Fiscal Year – Chairman Tavares raised his concern about the financial condition for the year end. Mr. Tavares stated that he is concerned with falling short come May 15. Ms. Pamela Nolan, Town Manager, responded that Mr. Patrick Dello Russo, the Director of Finance, has set up a series of meetings with all department heads to get an idea of where we stand from a financial perspective. Ms. Nolan has given them a two-week deadline. Mr. Tavares also mentioned the need for a meeting with the School Department on their budgets as well. Vice Chairman Malaguti was disturbed to hear that the Schools are now saying they cannot live with the present proposed budget. Selectmen Lombard and Quintal were in agreement.

Selectman Malaguti motioned to adjourn the meeting. Selectman Lombard seconded the motion. Voted 5-0 adjourned.

Lisa Conroy, Clerk