

~ PLYMOUTH BOARD OF SELECTMEN ~

TUESDAY, DECEMBER 20, 2011

TOWN HALL MAYFLOWER ROOM

The Selectmen held a meeting on Tuesday, December 20, 2011 at 7:00 p.m. at Town Hall in the Mayflower Room.

Present: John T. Mahoney, Jr., Vice Chairman
Sergio O. Harnais
Mathew J. Muratore
Belinda A. Brewster

Mark Stankiewicz, Town Manager

Absent: William P. Hallisey, Jr., Chairman

CALL TO ORDER

Vice Chairman Mahoney called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

DONATION FROM PLYMOUTH FITNESS TO VETERANS' SERVICES

A representative from Plymouth Fitness presented the Town with a donation of \$2,600 for the Veterans Services Department. Roxanne Whitbeck, Director of Veterans' Services, thanked the staff of Plymouth Fitness for their fundraising efforts on behalf of Plymouth's veterans.

TOWN MANAGER'S REPORT

Plymouth Public Library's 20th Anniversary – Town Manager Mark Stankiewicz noted that he and Selectman Brewster attended the Plymouth Public Library's 20th Anniversary Event, held on December 9, 2011, to commemorate the South Street location's 20th year in service. Mr. Stankiewicz congratulated Library Corporation president Jeffrey Chute and Library Director Dinah O'Brien for their efforts in marking this significant milestone for the Town.

Café COA – Mr. Stankiewicz reported that he recently appeared as a guest on the Council on Aging's local cable access show, "Café COA," with COA Director Conni DiLego. During the show, he explained, he and Ms. DiLego discussed the some of the issues facing the Town that would be of interest to Plymouth's seniors.

LICENSES

VEHICLE FOR HIRE (RENEWAL)

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board approved renewal of the following Vehicle for Hire licenses, as detailed below. Voted 4-0-0, approved.

❖ **Habilitation Assistance Corporation** (434 Court Street) requested renewal of the following licenses/permits (as noted):

- One Vehicle for Hire Business Permit –Taxi/Livery
- 21 Vehicles – 20 Renewals (19 Livery, 1 Taxi), 1 New (Taxi)
Vehicles have been inspected by the Inspectional Services Department.
- 13 Vehicle for Hire Operator Permits:
 - Stephen Eddy 29 Pine Ridge Lane, Duxbury
 - Allen Eddy 29 Pine Ridge Lane, Duxbury
 - Michael Eddy 29 Pine Ridge Lane, Duxbury
 - Jodie Cash-Eddy 29 Pine Ridge Lane, Duxbury
 - Meredith Eddy 16 River Road, Marion
 - Paul Burkett 28 Lakewood Drive
 - Clalia Corvelo 50 Birch Ave
 - Jerard Gunderway 30 Cedar St., Apt. 3, Weymouth
 - Scott Adams 9 Savery Pond Road
 - Robert Sharples 23 Heritage Drive
 - David Ryan 60 Massachusetts Avenue, Quincy
 - David Campbell 52 Liberty Street
 - Reginald Davis 71 Cape Cod Ave

Issuance of these licenses is subject to a CORI background check and driving record.

❖ **Total Traveler Transportation** (844 Webster Street, Marshfield, R. Michael Anabel, Owner) requested renewal of the following licenses/permits (as noted):

- One Vehicle for Hire Business Permit – Taxi
- One Vehicle – Taxi
Vehicle has been inspected by the Inspectional Services Department.
- Two Vehicle for Hire Operator Licenses:
 - R. Michael Anabel 80 Pine Street, Duxbury
 - Robert Johnson 118 Pilgrim Trail, Plymouth

Issuance of these licenses is subject to a CORI background check and driving record.

❖ **Special Occasion Limousine** (170 Court Street, Tim and Diane Dockery, Owners) is requesting renewal of the following Vehicle for Hire Operator permit:

- Lawrence Buechs 11 Bittersweet Circle

Issuance of these licenses is subject to a CORI background check and driving record.

❖ **South Shore Taxi** (85 Sandwich Street., Sadek Ghazzawi, Owner) is requesting renewal of the following licenses/permits:

- One Vehicle for Hire Business Permit – Taxi
- One Vehicle – Taxi
Vehicle has been inspected by the Inspectional Services Department.
- One Vehicle for Hire Operator Permit:
 - Sadek Ghazzawi 100 Robertson Street, Quincy

Issuance of these licenses is subject to CORI background check and driving record.

AUTO DEALER CLASS II (AMENDMENT)

On a motion by Selectman Muratore, seconded by Selectman Brewster, the Board approved the following amendment to a Class II Auto Dealer License, as detailed below. Voted 4-0-0, approved.

❖ **Combined Charities, Inc.** (86 South Street, R. Michael Sacchetti, Owner) requested an amendment to its Class II Auto Dealer License, reflecting a name change from Combined Charities of Cape Cod, Inc. to Combined Charities, Inc. A new surety bond has been issued.

CHANGE OF MANAGER (LIQUOR LICENSE)

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board approved the following requests for a Change of Manager (Liquor License), as detailed below. Voted 4-0-0, approved.

❖ **The Seaside Club** (77 Forest Avenue) requested a Change of Manager from John Cost to Edward Solomon. CORI background check shows no basis for denial.

❖ **TGI Friday's** (200 Colony Place) requested a Change of Manager from Christopher England to Denise Meyer. CORI background check shows no basis for denial.

REQUEST FOR TEMPORARY CLOSURE

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board approved the following request for temporary closure (Liquor License). Voted 4-0-0, approved.

- ❖ **14 Union Street Corp. d/b/a Union Fish** (14 Union Street) requested permission to close for maintenance and light renovations for 3 months, closing in January and reopening on or about April 1st, 2012.

COMMON VICTUALLER (NEW)

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board approved renewal of the following Common Victualler License, as detailed below. Voted 4-0-0, approved.

- ❖ **Honey Dew**, 15 Main Street Extension, Carlos Mota, owner

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

ADMINISTRATIVE NOTES

Modification of MOU for Property Off Home Depot Drive – The Board approved the request of Attorney Edward Angley to modify the Memorandum of Understanding signed between his client, Harald LLC and the Board of Selectmen by changing paragraph III-A-2 to read as follows:

2. HARALD shall prepare at its sole expense a plan showing proposed buffer areas, which buffer area locations are shown on a plan entitled “Modified Site Feasibility Plan, Plymouth, MA” by Allen & Major, dated 10/27/11, attached hereto as Exhibit D

Said paragraph III-A-2 shall be substituted for the current paragraph III-A-2 in the original Memorandum. In all other respects the provisions of the MOU shall remain in effect.

[Note: This language change eliminates the buffer zone, not the setback requirements, on the east side (Route 3) and along the northerly side of the property owned by Harald LLC along Home Depot Drive and abutting State Route 3.]

Update to Lease Exhibit – The Board (as lessor) approved an updated lease exhibit pertaining to leased property at 424 Long Pond Road for Golfscape, Inc. (as lessee), replacing Exhibit A “Conceptual Plan” with a new “Forges Field Golf Club Route Plan.”

Purchase & Sale for 82-84 Billington Street – The Board approved and executed a *Purchase & Sale Agreement* for property at 82-84 Billington Street, listed as Lot 129 on Assessors Map 27, as authorized by Article 16A of the 2011 Fall Town Meeting.

Acceptance of Deed for 82-84 Billington Street – The Board executed an *Acceptance of Deed* for property at 82-84 Billington Street, listed as Lot 129 on Assessors Map 27, as authorized by Article 16A of the 2011 Fall Town Meeting.

Donation of Boat and Monetary Funds for Police Department – The Board (a) accepted a 27’ Safe Boat from the Massachusetts State Surplus Property Office for use by the Police Department and (b) accepted a donation of \$10,000 from Entergy Nuclear

Operations for the administrative fee to secure transfer of the boat from the State's Operational Services Division.

PUBLIC COMMENT

Vice Chairman Mahoney opened the meeting to public comment. No citizens came forth to address the Board.

COMMITTEE APPOINTMENTS

On a motion by Selectman Muratore, seconded by Selectman Harnais, the Board appointed the following citizens to Town committees, boards, and commissions, as detailed below. Voted 4-0-0, approved.

Cedarville Steering Committee: 1 seat available, 1 applicant

Claudette Thomas	1636 State Road	New Applicant	Term exp. 6/30/2013
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Cultural Council: 4 seats available, 1 applicant

Lauren Hodson	15 Indian Avenue	New Applicant	Term exp. 12/19/2014
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Plymouth Growth & Development: 1 seat available, 1 applicant

Christine Pratt	242 Court Street	Incumbent	Term exp. 12/01/2016
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Plymouth Growth & Development: Foundation Designee

Richard J. Quintal, Jr.	46 Nicks Rock Road	Incumbent	Term exp. 12/03/2016
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REQUEST FOR SNOW PLOW SERVICE

Roy Bruninghaus, trustee and treasurer of the Chilton Park Village Condominium Trust, addressed the Board on behalf of seven Chilton Park condominium owners to request that the Town provide snowplow service on Harborlight Circle.

Mr. Bruninghaus explained that Chilton Park was constructed by GOSCON, Inc. as an age-restricted (over-55) condominium development. Twenty-five units were planned for the development, 10 units were constructed, and seven are occupied, he said. Mr. Bruninghaus indicated that GOSCON, Inc. declared bankruptcy in March of 2011, thereby forcing the remaining condominium owners/trustees to assume management of the development. GOSCON, Inc. has ceased payment of its dues for the three remaining condo units that it owns, he noted, leaving the responsibility for numerous unpaid bills in the hands of the Trust.

Mr. Bruninghaus reported that the trustees of Chilton Park are finding it more and more difficult to fund the management of the property, due to the failure of GOSCON, Inc. to live up to its financial responsibilities. One such challenge, he noted, is the expense necessary to provide snow and ice removal service on Harborlight Circle, the road used to access the condo development. Mr. Bruninghaus acknowledged that Harborlight Circle is designated as a paved private way, which the Town will not plow. He noted, however, that the Town's snowplow contractors utilize the circle to turn around while plowing the adjacent Harborlight Drive. As such, Mr. Bruninghaus and his fellow Chilton Park trustees would like to ask the Town to direct its drivers to simply lower their plows while turning around in Harborlight Circle. Once the Trust's financial situation improves, he assured the Board, Chilton Park's trustees will resume financial responsibility for snowplow service on Harborlight Circle.

Jonathan Beder, Director of Public Works, provided the DPW's perspective on the request for snowplow service on Harborlight Circle. The DPW recommends against the request, he said, based on the fact that Harborlight Circle is, in essence, a shared private driveway that lacks the structural integrity to sustain snowplow service without the potential for damage. Mr. Beder noted his apprehension that, if one of the Town's plows were to damage the private driveway, or any part of the private property within the condominium park, the Town would be financially responsible. This, he said, is why the Town's plow drivers lift their plows when turning around on Harborlight Circle.

Mr. Beder displayed a map showing the location of Harborlight Circle and responded to questions from the Selectmen regarding the characteristics of the roadway. Mr. Beder again reiterated that the Town does not own or hold any rights to the roadway. If the Town were to agree to this type of request, he said, it could set a questionable precedent of providing public service on common driveways.

Mr. Bruninghaus acknowledged the points made by Mr. Beder but argued that Harborlight Circle is similar to Harborlight Drive, which the Town regularly plows. If the circle is not plowed, he said, emergency vehicles cannot access the condominium units. Mr. Bruninghaus reported that the Roads Advisory Committee ("RAC") reviewed the request and recommended that the DPW plow Harborlight Circle for one winter season, until the trustees can resume financial responsibility for its own private snow removal services.

With regard to the RAC's decision to recommend plow service for one year, Mr. Beder offered his opinion that the committee's 3-2 vote was based on sympathy for the plight of Chilton Park's trustees. In other similar circumstances, however, the RAC has denied such requests, he said. Mr. Beder speculated that the RAC may have changed its typical stance on the Chilton Park request, based on the misperception that it would be harmless for plow drivers to simply drop their plows while turning around in Harborlight Circle.

Selectman Harnais, who serves as the Board's designee on the RAC, echoed the comments made by Mr. Beder that the RAC has historically denied similar requests for snowplow service on common driveways, based on issues of legality and liability. Though he can recognize the predicament in which the Chilton Park trustees have been placed, Selectman

Harnais expressed concern for the liability to which the Town could subject itself if it was to begin plowing common driveways.

Mr. Beder and Mr. Stankiewicz responded to a number of questions posed by the Selectmen with regard to liability. Selectman Brewster inquired if the trustees of Chilton Park could sign a liability waiver, absolving the Town from responsibility for property damage while plowing Harborlight Circle. Mr. Beder said that his concern is not only for the damage that the Town could do to private property, but also for the injury or damage that could be done to Town employees and equipment when plowing roads that are not built to certain standards. Mr. Stankiewicz acknowledged that a liability waiver in this type of circumstance would help to protect the Town, but the larger issue, he said, is the precedent, and ultimate expense, of making such exceptions—once the Town agrees to plow one common driveway, it will be asked to plow others.

The Board debated whether it should approve the request. Following some discussion, the general consensus of the Board was one of sympathy for the Chilton Park trustees but also concern for the precedent that such a decision could set. The Board ultimately took no action on the request.

PROPOSED REFERENDUM ON PILGRIM STATION RELICENSING

Theodore Bosen presented the Selectmen with the text of a petition that he and a number of other citizens have signed to enact a Town-wide referendum concerning the relicensing of the Pilgrim Nuclear Power Station. The text he provided to the Board read as follows:

We, the undersigned citizens of the Town of Plymouth hereby petition the Plymouth Board of Selectmen to place the following referendum question on the May 2012 Town Ballot:

We the People of Plymouth Massachusetts, direct the Plymouth Board of Selectmen to call upon the Nuclear Regulatory Commission to immediately suspend all further action on the application of the Entergy Corporation for renewal of its license to operate the Pilgrim Nuclear Power Station pending the full implementation of all safety improvements recommended by the NRC as a result of lessons learned from failures of similarly designed reactors in Fukushima, Japan.

Mr. Bosen stated that he and his fellow petitioners understand that the proposed referendum question is not binding. The intent, he said, is to allow Plymouth's voters to express themselves and initiate discussion on the matter of Pilgrim Nuclear Power Station's application to be relicensed for another 20 years of service. Mr. Bosen noted, however, that his petition should be viewed as a call for the implementation of safety measures, as opposed to a call for the shutdown of Pilgrim Station.

In addition to the petition, Mr. Bosen provided the Board with information on recent commentary from the United States Nuclear Regulatory Commission ("NRC") and the Atomic Safety and Licensing Board ("ASLB") regarding the lessons learned from the incidents at the Fukushima Dai-Ichi Power Station in Japan. Mr. Bosen also reported that he presented his petition to the Town's Nuclear Matters Committee ("NMC"), which voted

(at its December 19, 2011 meeting) to recommend against placing the statement on the May election ballot.

Mr. Bosen expressed his belief that it is in the interest of good government to provide its citizens with the opportunity to ask, and vote upon, such questions. The referendum, he said, will inspire educational forums and public discourse on the very important topic of the safety of Pilgrim Nuclear Power Station. Mr. Bosen stated that the Selectmen need not take a position on the question, but, rather, it should simply allow the referendum to go forth to the voters.

Selectman Muratore informed the Board that he attended the NMC's December 19th meeting, at which the committee voted against recommending the placement of the petitioned statement on the May election ballot. The committee did vote, however, in support of hosting an open, public forum on the matter, he noted. Selectman Muratore sought to make it clear that the safety of the Power Station is of the utmost importance to the Selectmen, regardless of the negotiations it must conduct with Entergy on the Payment In Lieu of Taxes ("PILOT") agreement.

Following some remaining discussion between Selectman Muratore and Mr. Bosen regarding a recent letter the Selectmen issued to the NRC, conversation turned to whether the Selectmen would allow the petitioned statement to move forth onto the May ballot without the necessary number of signatures.

Vice Chairman Mahoney opened the discussion to public comment.

Jay Ferguson of Manomet asked the Selectmen to put the petitioned statement on the ballot, citing Pilgrim Station's age and the lack of funding that the facility's owners (Entergy) provide to the Town. Mr. Ferguson noted that he has been asking Entergy for years to test its sirens on a predictable, regular schedule, to no avail. The lessons learned from Fukushima, he said, should indicate the dangers of having a nuclear power facility in "our very back yard."

Wedge Bramhall read a prepared statement in which he illustrated the scope of the Fukushima disaster and compared it to what could happen in Plymouth under similar circumstances. He urged the Selectmen to put the question on the ballot, so that Plymouth's citizens can voice their concerns to both Entergy and the federal government.

Everett Malaguti of Precinct One also asked the Selectmen to allow the petitioned statement on the May ballot, because a town-wide vote may garner more attention and, thus, elevate the discussion to the federal level. As a student of meteorology, Mr. Malaguti said that he is aware of the concerns that some have issued regarding the (allegedly outdated) meteorological modeling used at Pilgrim Station.

Robert Alford advised the Selectmen to place the petitioned statement on the May ballot, citing his long-standing contention that Entergy does not pay its fair share of taxes to the Town.

Kenneth Laytin of West Plymouth noted that, though he is not opposed to nuclear energy, he does have concerns about the safety of Pilgrim Station. If one looks at the relationship between industry and government, he explained, the consumer has always driven the initiative for safety measures. Mr. Laytin advocated for ensuring that Pilgrim Station is the safest facility in the country, noting the disturbing possibility that a whole section of Massachusetts could be abandoned if something were to ever go wrong. If the Selectmen are in a position to ease the process of bringing such a petition forth, he said, there is no reason why it should not do so.

Vice Chairman Mahoney reported that, based on information provided by the Town Clerk, Mr. Bosen would be required to collect 3,715 signatures (10% of Plymouth's registered voters) in order to meet the criteria for placing a question/statement on the Town's election ballot. Selectman Muratore asked a number of questions regarding the Entergy's PILOT agreement with the Town, to which Mr. Stankiewicz provided information on the advantages and challenges of PILOT agreements versus annually-assessed value taxation.

The Board continued its discussion on whether it would place Mr. Bosen's petition on the ballot, without requiring him to collect the necessary 10% of registered voters' signatures. Mr. Stankiewicz cautioned the Board that, by allowing one group to bypass the signature process, it may be asked to do the same for other groups.

Selectman Muratore made a motion to approve the placement of Mr. Bosen's petition on the May election ballot, as presented, without requiring him to go through the customary signature process. Selectman Harnais seconded the motion.

Selectman Muratore expressed his frustration that Entergy appears to be unwilling to participate in open public forums, and, thus, the proposed referendum may force them to engage more openly with the community. It is worth making an exception to the rule in the name of public safety, he said.

Selectman Harnais noted that, though he had initial reservations about allowing a group of citizens to circumvent the petition process, he now agrees with Selectman Muratore's observation that the petition might encourage Entergy to be more open with the public.

Selectman Brewster offered her opinion that it is important to stand on the side of safety, whether one is for or against nuclear power. By voting to approve the request of petitioners, she said, the Board will demonstrate that it cares enough to let the voters have their say. Selectman Brewster expressed her hope that the referendum question will spark an open and valuable debate, with participation from Entergy.

Vice Chairman Mahoney talked about the effect that the deregulation of the nuclear power industry has had on communities that host nuclear facilities. In the 1970's, he said, Boston Edison (the former owners of Pilgrim Station) funded the majority of the Town's budget, while the current owners pay less than 7%. Vice Chairman Mahoney offered his observation that the nuclear industry seems almost impervious to public outcry, and, while plant owners like Entergy receive a good deal of the community's frustration, it is the

federal government that needs to stand accountable for its lack of regulatory oversight. Plymouth, he said, must begin planning now for the eventual closure of Pilgrim Station, anticipated somewhere between 2020- 2025.

At the close of discussion, the Board voted 4-0-0 in favor of Selectman Muratore's motion to approve the placement of Mr. Bosen's petition on the May election ballot, as presented. Mr. Stankiewicz acknowledged that he would notify Entergy of the Board's decision.

BOARD LIAISON / DESIGNEE UPDATES

The Selectmen offered no reports or updates on Town committee activity.

OLD BUSINESS / LETTERS / NEW BUSINESS

League of Women Voters to Host Meals Tax Forum – Selectman Brewster notified the public that the Plymouth Area League of Women Voters will host a forum at 7:00 p.m. at Town Hall on Thursday, January 5, 2012 to discuss the Meals Tax Referendum. At the forum, she explained, Michael Hanlon will represent supporters of the Meals Tax, and Christopher Fava will represent those opposed to the Meals Tax. Selectmen Brewster encouraged citizens to attend or view the forum (which will be aired live on PACTV), to educate themselves on the issue prior to the referendum vote on January 14, 2012.

Visitor Services Board / 400th Anniversary – Vice Chairman Mahoney noted that he and Selectmen Brewster attended the December 13, 2011 meeting of the Visitor Services Board ("VSB") to hear deliberation on a request for funding for the 400th Anniversary Celebration. Because of a notable increase in receipts from the local option Hotel/Motel Tax, he explained, the VSB will have more funds to distribute from the Town Promotions Fund for 2011. As such, Vice Chairman Mahoney advised the Board to await the VSB's decision on the funding request, in the event that the Selectmen were considering the inclusion of a line item in the Town's budget for funding of the Anniversary Celebration.

ADJOURNMENT OF MEETING

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board voted to adjourn its meeting at approximately 9:05 p.m. Voted 4-0-0, approved.

Recorded by Tiffany Park, Clerk to the Board of Selectmen

A copy of the December 20, 2011 meeting packet is on file and available for public review in the Board of Selectmen's office.