~ PLYMOUTH BOARD OF SELECTMEN ~

TUESDAY, JUNE 26, 2012

TOWN HALL MAYFLOWER ROOM

The Selectmen held a meeting on Tuesday, June 26, 2012 at 7:00 p.m. at Town Hall in the Mayflower Room.

Present: Mathew J. Muratore, Chairman

John T. Mahoney, Jr., Vice Chairman

Belinda A. Brewster Kenneth A. Tavares

Melissa Arrighi, Town Manager

Absent: Selectman Sergio O. Harnais

CALL TO ORDER

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

At the beginning of the meeting, Chairman Muratore was pleased to announce that the Board of Selectmen and the Plymouth Redevelopment Authority ("PRA") have agreed to work cooperatively on the development and issuance of a Request for Proposals ("RFP") relative to the redevelopment of the historic 1820 Courthouse. Once the Selectmen and PRA build consensus on the elements that the RFP should contain, he said, the bid should be ready by the end of the year. By working side-by-side with the PRA, Chairman Muratore stated, the Selectmen believe that the joint effort will be a great first step in revitalizing the historic downtown area.

TOWN MANAGER'S REPORT

Town Hall Green Team – Town Manager Melissa Arrighi thanked the Department of Public Works and Planning Technician Patrick Farah for the installation of motion sensor switches in all of the rest rooms at Town Hall. This initiative, she explained, was recommended by the Town's staff-driven Green Team, whose mission is to promote energy efficiency and savings within the Town's municipal facilities.

Fire Department Retirement – Ms. Arrighi reported that Plymouth Firefighter Don DeCost officially retired from the Fire Department on June 15, 2012, after 29 years of service with the Town.

Post Employment Benefit Fund and Private Roads Legislation – Ms. Arrighi announced that Governor Patrick has signed two approved pieces of legislation submitted by the Town of Plymouth: S.2030, pertaining to the Other Post Employment Benefits ("OPEB") Fund, and S.1049, pertaining to the authorization to make improvements on unaccepted roads – now Chapters 112 and 113 of the Acts of 2012. Ms. Arrighi thanked Lynne Barrett and the Retirement Board for their work on the OPEB act. She also thanked the Roads Advisory Committee for their work on the roads legislation.

Manomet Odor – Ms. Arrighi reported that staff members from the Building, Health, Conservation, Environmental Management, and Public Works departments continue to work upon determining the source of the Manomet odor problem. The Town, she noted, is working with the Massachusetts Department of Health ("DPH") and a consultant who specializes in environmental toxicology to conduct some testing of samples from the massive wrack of seaweed that has washed ashore near White Horse Beach. Ms. Arrighi indicated that recent dye testing of septic systems abutting the beach has shown no signs of leaching, to-date. In the meantime, she said, DPH has positively identified the significant presence of an invasive seaweed species in the wrack. This species, she explained, is known for its odor and mat-like quality, and it has caused similar odor problems along a number of coastal beaches. Ms. Arrighi affirmed that she would continue to update the Selectmen as staff learns new information.

COMMITTEE LIAISON / DESIGNEE UPDATES

Industrial/Commercial Land Study Committee – Selectman Brewster reported that the Industrial/Commercial Land Study Committee met on June 21, 2012 to review the final land study report. The final report, she said, will be presented to the Selectman and Planning Board during a joint meeting in August. Selectman Brewster indicated that the committee decided to continue its work for another year, to act as a 'sounding board' for the Planning Department, as staff begins to implement the action items outlined within the report.

July 4th Parade and Firework Events – Selectman Tavares provided the Board with an update on July 4 Plymouth Incorporated's fundraising activities to produce the 2012 July 4th parade and firework events. Based on current fundraising figures, he said, the committee has decided to move forth with the events, with the hope that donors will come forth to provide the remaining shortage. Selectman Tavares noted that, of the 152 donations received to-date, more than half were from local businesses and organizations, including a notable contribution from Plymouth VFW Post 1822.

Nuclear Matters Committee – Vice Chairman Mahoney informed the Board that he attended the June 18, 2012 meeting of the Nuclear Matters Committee, at which the committee covered a number of interesting topics relating to Pilgrim Nuclear Power Station.

LICENSES

COMMON VICTUALLER (NEW)

On a motion by Selectman Tavares, seconded by Selectman Brewster, the Board voted to grant a Common Victualler License to the following applicant, as detailed, below. Voted 4-0-0, approved.

❖ Marshland Group Inc d/b/a Marshland 3A, 986 State Road, Martin Finch, Owner (Formerly Sweet Lemon's)

Issuance of the above license is subject to the completion of all necessary paperwork.

COMPREHENSIVE ENTERTAINMENT (NEW)

On a motion by Selectman Tavares, seconded by Vice Chairman Mahoney, the Board voted to grant a Comprehensive Entertainment License to the following applicants, as listed, below. Voted 4-0-0, approved.

- ❖ Marshland Group Inc d/b/a Marshland 3A (986 State Road, Martin Finch, Owner) (Formerly Sweet Lemon's)
 - Applying for Group 1 Jukebox, Radio, TV
- ❖ Fashion Food, LLC d/b/a Wendy's (69 Long Pond Rd., Ernest Smily, Owner)
 - Applying for Group 1– TV only

Issuance of the above licenses is subject to the completion of all necessary paperwork.

VEHICLE FOR HIRE OPERATOR LICENSE (NEW)

On a motion by Vice Chairman Mahoney, seconded by Selectman Brewster, the Board voted to grant a Vehicle for Hire Operator License to the following applicant, as detailed, below. Voted 4-0-0, approved.

- **❖** For Plimoth Transportation Inc d/b/a Mayflower Taxi:
 - Douglas O'Roak (76 Dorothy Dr.)

Issuance of above licenses is subject to the CORI background check.

ONE DAY WINE & MALT LIQUOR LICENSE*

On a motion by Selectman Brewster, seconded by Vice Chairman Mahoney, the Board voted to grant a One Day Wine & Malt License to the following applicant, as listed, below. Voted 4-0-0, approved.

(continued on next page)

❖ Father Ken Overbeck / St. Bonaventure Parish (986 State Road) requested a One Day Wine & Malt Liquor license for an Annual Cookout to be held from 3:00 p.m. to 10:00 p.m. on June 23, 2012 on the Parish grounds.

On a motion by Vice Chairman Mahoney, seconded by Selectman Brewster, the Board voted to grant a One Day Wine & Malt License to the following applicant, as listed, below. Voted 4-0-0, approved.

❖ Jennifer O'Brien / Setting the Space (2 Main Street) requested a One Day Wine & Malt Liquor license for a shopping event to be held from 10:00 a.m. to 8:00 p.m. at the 2 Main Street location on the following dates: June 30, July 4, and July 7, 2012.

Liquor liability will be in place before the licenses are released.

*One day liquor licenses shall automatically cover the day before and the day after the event for the purpose of proper delivery, storage and disposal of alcoholic beverages purchased.

ADMINISTRATIVE NOTES

Meeting Minutes – On a motion by Vice Chairman Mahoney, seconded by Selectman Brewster, the Board voted to approve the meeting minutes of the January 24, 2012 and January 31, 2012 Selectmen's meetings. Voted 3-0-1, approved, with an abstention from Selectman Tavares, who was not a member of the Board when these meetings took place.

Year-End Transfer – The Board approved a Year-End Transfer for the Town Manager's Office of \$18,885 for the line item "Salaries and Wages."

Extension of Agreement with Plymouth Growth & Development Corporation – The Board approved a 90-day extension to the Memorandum of Agreement between the Town and the Plymouth Growth & Development Corporation.

General Obligation Bond Anticipation Note – The Board approved the sale of a \$800,000 0.700 percent General Obligation Bond Anticipation Note (the "Notes") of the Town dated June 29, 2012, and payable May 8, 2013, to Century Subsidiary Investments Inc. III (the "Purchaser") at par plus a premium of \$1,600.

and further voted: that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated June 5, 2012, and a final Official Statement dated June 19, 2012, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

and further voted: that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel

to the Town, which undertaking shall be incorporated by reference in the Notes for the benefit of the holders of the Notes from time to time.

<u>and further voted</u>: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

Town CORI Policy – The Board approved an updated *Town of Plymouth CORI Policy*, in accordance with the Massachusetts CORI (Criminal Offender Records Inquiry) Reform Law.

Exclusive Vending Rights for July 4th Events – The Board granted Exclusive Vending Rights to July 4 Plymouth, Inc. for the July 4th Parade and Fireworks events.

Exclusive Vending Rights for Project Arts of Plymouth – The Board granted Exclusive Vending Rights to Project Arts of Plymouth, Inc. for the following events at Pilgrim State Memorial Park:

- Plymouth Harbor Folk Festival July 14, 2012, 9AM 7 PM (music begins at noon)
- Harborfest to Benefit MDA August 11, 2012, 9AM 6 PM (music begins at noon)
- Wednesday Night Concert Series July 18, 25, August 1, 8, 15, 22 & 29, 6:30 9:30PM

Donation of Veterinary Care for Police Canine – The Board accepted, with gratitude, a donation of veterinary care from the Plymouth Animal Hospital for the Police Department's K9 canine, "Shirley," valued at approximately \$600.

Hedges Pond Recreation Area Gift Account – The Board established a gift & donation account for the Hedges Pond Recreation Area and authorized the DPW Recreation Director to expend funds from this account.

Appointment to 1820 Courthouse Consortium – The Board appointed Paul Cripps of Destination Plymouth as the Cultural/Tourism representative on the 1820 Courthouse Consortium, for a term effective June 27, 2012 through June 30, 2013. Mr. Cripps was the only applicant for the open seat.

PUBLIC COMMENT

Jeff Berger, chairman of the Nuclear Matters Committee, offered a number of comments and concerns to the Board regarding Pilgrim Nuclear Power Station. Mr. Berger asserted that his comments represented his own personal beliefs, not those of the entire Nuclear Matters Committee. The Town, he said, is understandably gearing up for its 400^{th} anniversary in 2020, but there is another year that should, in his opinion, demand more of Plymouth's attention: 2032, when the Pilgrim Nuclear Power Station will be

decommissioned. Mr. Berger explained his belief that Entergy (owners of Pilgrim Station) is not paying its fair share to Plymouth for hosting a nuclear plant that poses a number safety risks to the community. When the facility is decommissioned in 2032, he said, the Town will face a very serious financial situation, when the Town will no longer receive revenue from the PILOT agreement. Mr. Berger discussed, in further detail, his concerns relating to the valuation of the facility, the risk it poses to the community, and the unresolved problem of Tritium levels in the soil surrounding the power station. Considering the profits made from energy produced at Pilgrim Station, Mr. Berger stated, Entergy has a moral responsibility to adequately compensate the Town for the threat it poses to the safety of Plymouth's citizens.

Robert Alford of Precinct 7 noted that he has spoken to the Board a number of times about his belief that the Town does not receive proper revenue in lieu of taxes from Entergy. At one point, he said, the owners of Pilgrim paid the Town \$15 million annually, but Entergy currently pays the Town only \$9 million per year. Mr. Alford question why—if this drop in revenue can be attributed to deregulation—the Town has not pursued State and Federal influence to restore regulation of the nuclear power industry. Instead of trying to cut \$1 million out of the Town budget, he remarked, the Town should utilize its legal counsel to obtain \$1 million more from Entergy in PILOT payments. Mr. Alford concluded his remarks with his opinion that the Town should transition to a split tax rate (i.e. separate tax rate for business and residential property), so that Entergy will be forced to pay its fair share in taxes.

Norman Pierce of Morgan Road thanked Jeff Berger for his comments regarding Pilgrim Nuclear Power Station, noting his agreement that the Town should certainly begin planning for the anticipated decommissioning of the station in 2032. Mr. Pierce questioned, however, whether Mr. Berger was correct in his assumption that the facility will cease to operate at the end of its projected license term in 2032. If, in fact, the facility is decommissioned in 2032, he said, the decommissioning process will take at least seven years, during which time employees will be actively working at the site, and the PILOT agreement will likely remain in effect.

Wedge Bramhall stated his position that the PILOT agreement with Entergy should reflect the fact that spent nuclear waste will remain stored at the site, indefinitely. Considering what occurred in Japan at the Fukushima Dai-Ichi facility, he said, Entergy owes the Town Mr. Bramhall offered his estimation that, following more than it is providing. decommissioning in 2032, Pilgrim Station will most likely be replaced by another energygeneration facility, based on the existing infrastructure at the site (i.e. power supply lines running from the facility).

PUBLIC HEARING: NEW WINE & MALT PACKAGE STORE LICENSE

WESTBOROUGH BEVERAGE CORP. D/B/A WAL-MART SUPERCENTER #2336, 300 COLONY PLACE

Chairman Muratore announced that a public hearing to consider the application for a new annual Wine & Malt Package Store License from Westborough Beverage Corp. d/b/a WalMart SuperCenter #2336 (300 Colony Place) had been cancelled, at the request of the applicant. The license application, Chairman Muratore stated, has been formally withdrawn.

PUBLIC HEARING: ANNUAL ALL ALCOHOL RESTAURANT LICENSE

M&M RESTAURANT CORPORATION D/B/A TOSCANA, 87 SANDWICH STREET

Chairman Muratore opened a public hearing to consider the application for a new Annual All Alcohol Restaurant Liquor License from M&M Restaurant Corporation d/b/a Toscana, 87 Sandwich Street, Juan Portilla as Manager. Chairman Muratore read a description of the premises and affirmed that notice of the hearing was given to the public in accordance with Chapter 138 of the Massachusetts General Laws.

Attorney Edward Conroy addressed the Board on behalf of M&M Restaurant Corporation. Attorney Conroy informed the Board of his client's intent to open Toscana at the location on Sandwich Street that was formerly occupied by the Cuisine of Mark Connolly. Toscana, he said, will be a 44-seat restaurant, serving lunch and dinner daily from 11:00 a.m. to 10:00 p.m. Attorney Conroy affirmed that Juan Portilla, the license Manager, is TIPS-certified, and that he has many years experience in the restaurant industry.

Seeing no questions from the Board, Chairman Muratore opened the hearing to public comment. No citizens came forth to speak, and, thus, Chairman Muratore closed the hearing to await a motion of the Board.

On a motion by Selectman Tavares, seconded by Vice Chairman Mahoney, the Board granted a new Annual All Alcohol Restaurant Liquor License to M&M Restaurant Corporation d/b/a Toscana, as requested in the license application. Voted 4-0-0, approved.

On a motion by Selectman Brewster, seconded by Vice Chairman Mahoney, the Board voted to grant the following licenses to M&M Restaurant Corporation d/b/a Toscana (87 Sandwich Street) in conjunction with the approved request for an Annual All Alcohol Restaurant License. Voted 4-0-0, approved.

- Comprehensive Entertainment Radio only
- Common Victualler

PARKING FUND FEE

Ms. Arrighi re-introduced a discussion (tabled from the Board's meeting of June 5, 2012) on the proposal to temporarily modify the Town's Parking Fund Fee. Staff, she explained, drafted an interim Parking Fund Fee Policy in response to the Board's request that Plymouth become more business-friendly. Prior to turning the discussion over to Lee

Hartmann, Director of Planning & Development, Ms. Arrighi briefly reiterated the purpose of the Parking Fund Fee and the manner by which it is applied.

Mr. Hartmann provided the Board with some history on the Parking Fund Fee, which is a voluntary alternative for village-center property owners who cannot provide their own onsite parking. Revenue from the fund may be utilized for parking-related land acquisition, facility construction, and related design expenses. The fee is calculated on the use of the property (residential, commercial, retail, restaurant, etc.), and properties are grandfathered-in until there is a proposed change of use or expansion. In the 1970's, Mr. Hartmann reported, the Town recognized the shortage of parking in the Town's village center areas. A decision was made to assess the parking requirements/demands created by each property and then grandfather the number of spaces for each. Prior to 1991, any subsequent changes to use, expansion, or new construction at properties within the Town's village centers would require that (a) the property owner provide on-site parking or (b) the property owner request a waiver of parking from the Zoning Board of Appeals ("ZBA").

In 1991, Mr. Hartmann continued to explain, the Town sought to encourage development through allowed uses by creating the Downtown/Harbor District, but business owners found the requirement to provide on-site parking and the ZBA process to be too challenging. At the urging of business owners, the Town created the Parking Fund Fee as a means by which property owners could offset the parking requirements and establish seed money for structured parking.

Since the establishment of the Parking Fund Fee, Mr. Hartmann noted, very few projects have been undertaken in the downtown that have required Planning or ZBA approval, and, thus, it appears that the Parking Fund Fee option has worked well. It is important to note, he reiterated, that every business in the downtown village center has a grandfathered level of parking that dates back to the 1970's, even if the building/property has remained vacant. It is only when the property owner converts the existing space/structure to a more intensive use (e.g. from office space to restaurant use) that the Parking Fund Fee is triggered.

Mr. Hartmann distributed a spreadsheet detailing the payments made to the Parking Fund since 2001, bringing the current fund balance to \$187,768.67 (\$70,130.00 of which was collected from 2001 to date). The fee, he reiterated, is voluntary, and, in his opinion, it has been successful at controlling growth and giving developers and alternate option for parking while creating seed money for future parking initiatives.

The proposed interim policy, Mr. Hartmann explained, would temporarily waive the fee requirement (through January 1, 2014) for the conversion of non-residential uses within existing buildings or structures in the village center, for the purpose of encouraging economic development in the Town's village centers.

Selectman Tavares asked for comments on the proposal from the Plymouth Growth & Development Corporation ("PGDC").

Alan Zanotti, Secretary of the PGDC, stated that the PGDC voted to oppose the proposed interim policy. The PGDC, he said, collectively agreed that the Parking Fund fee schedule

was modified some years back to a reasonable level that would allow for development while acknowledging the Town's clear and long-standing need for additional parking. The fee, he said, is only implemented in cases of new construction or a change of use that would place a further demand on parking. The PGDC, he reported, feels that business owners have a responsibility to provide parking for their patrons. Considering the cost of structured parking—estimated at approximately \$25,000 per space—the revenue in the Parking Fund is integral to the initiative to construct a parking garage.

Selectman Tavares discussed his own differing views on the Parking Fund. The fund, he said, will never generate enough money to cover the cost of structured parking, and, thus, it appears unfair to collect fees from business owners with no clear use for the revenue. On the other hand, he noted, the downtown could be overwhelmed by an influx of bars and restaurants if the Parking Fund requirement is waived or eliminated. With so many of the service-oriented businesses disappearing from the downtown, Selectman Tavares questioned how Plymouth's most historic area might look in 2020 if the primary commercial characteristic of the neighborhood is the restaurant/bar industry.

Mr. Hartmann responded to questions from the Board regarding the way by which the fund can be used, the proposed temporary waiver, and recent fees paid into the fund. Revenue from the Parking Fund, he explained, can be used towards the purchase and creation of surface parking, which is much less expensive than structured parking. With regard to the recent payment of \$22,500 into the fund by the owners of 18 Main Street Extension (March 2012), Mr. Hartmann explained that the expansion of a previously-unoccupied third floor attic space triggered the Parking Fund Fee. Mr. Hartmann again reiterated his belief that the Parking Fund has merit, but he acknowledged the state of the current economy and the reasons why the Selectmen wish to provide downtown business owners (and prospective entrepreneurs) with some temporary relief.

Chairman Muratore opened the discussion to public comment.

Demetrious Stavropoulos, owner of Anna's Harborside Grille at 145 Water Street, stated that he willfully paid into the Parking Fund to do his part as a new business in Plymouth, but he noted the challenge of paying the fee in addition to all of the expenses associated with starting a new business. The Selectmen, he said, need to consider the financial risk that business owners bear when they bring new businesses—and jobs—to Plymouth. Mr. Stavropoulos speculated that waiving the Parking Fund Fee may ultimately bring the Town more benefits (in terms of attracting new business) than collecting the fee.

Seeing no further comment, the Board discussed the proposal to temporarily modify the Parking Fund Fee. Vice Chairman Mahoney did not see the advantage in waiving the fee, when the Town and PGDC are currently in the midst of planning for a parking garage structure. Both Chairman Muratore and Vice Chairman Mahoney noted their preference in hearing the presentation on the parking garage, prior to making any decision on the Parking Fund Fee. Selectman Brewster expressed concern that several businesses have paid into the Parking Fund, with no real guarantee that additional parking spaces will ever be provided. Selectman Tavares agreed with Selectman Brewster but noted his concern

about the influx of restaurants and bars that a Parking Fund waiver would likely encourage in the downtown.

Leighton Price, PGDC president, offered his observation that, though the revenue in the Parking Fund may be too insignificant to directly create additional spaces in the downtown, the fund can certainly serve as valuable seed money towards the research and design phase for structured parking.

Mr. Hartmann pointed out that, if the Board were to eliminate the Parking Fund option, altogether, a number of projects proposed within the Town's village centers will be redirected to the Zoning Board of Appeals, where such projects could be delayed through litigation and, ultimately, discouraged. The Parking Fund Fee, he said, at least provides businesses and property owners with an alternative to the ZBA process. Mr. Hartmann disagreed with Mr. Price's comment that the revenue in the Parking Fund is too insignificant to actually create parking spaces, because this fund could, in fact, be used in the short term for land acquisitions for additional surface parking.

The Board discussed holding its decision on an interim Parking Fund Fee Policy until the PGDC provides its presentation on the parking garage proposal. It was decided that the PGDC would make its presentation during a joint session of the Selectmen and Planning Board, tentatively scheduled for August 21, 2012.

OLD BUSINESS / LETTERS / NEW BUSINESS

Entergy PILOT – Referring to earlier concerns issued about Pilgrim Nuclear Power Station by Jeff Berger during public comment, Selectman Tavares expressed his belief that it may be time for the Board to consider a different approach towards Entergy. The community, he said, wants answers as to why Entergy does not provide the Town with ample compensation for serving as a host community to a nuclear power station. Selectman Tavares noted that, in addition to placing pressure on the Federal government to adhere to its promise to safely store nuclear waste, the Town must enhance its efforts to negotiate an improved PILOT agreement with Entergy.

Selectman Brewster spoke about her efforts to form a coalition of nuclear host communities that can advocate cooperatively at the Federal level for the release of funds from the \$30 billion account set aside for the storage of nuclear waste. The coalition, she said, will not be pro- or anti-nuclear, but, rather, it will be focused on safety and the Federal government's responsibility to provide for the proper storage of nuclear fuel. Selectman Brewster reported that she will make a presentation to the Board on the formation of the coalition in the coming weeks.

Chairman Muratore asked the Town Manager to schedule an upcoming executive session with legal counsel to discuss the PILOT with Entergy.

Official Trip to Plymouth and London, England – Selectman Tavares requested information on the cost of sending three representatives from the Town Manager / Board of Selectmen's Office on the Chamber of Commerce's trip to Plymouth and London, England. While the Town should certainly send a representative, he said, it may not be necessary to send as many as three individuals, at a cost to the taxpayer. Selectman Tavares stated his belief that the Board should vote upon whom it will send as its representative.

Chairman Muratore indicated that he is traveling with the delegation as a representative of the Plymouth Regional Economic Development Foundation. The cost to send each representative, he said, is approximately \$2,100.

Selectman Tavares reiterated that he would like to know the amount of taxpayer dollars that will fund the expense of sending the Town's representatives on the trip. Chairman Muratore asked Ms. Arrighi to research Selectman Tavares' request.

EXECUTIVE SESSION AND ADJOURNMENT OF OPEN SESSION

At 8:50 p.m., the Board voted to enter executive session pursuant to Massachusetts General Laws, Chapter 30A, Section 21, Paragraph 6, to consider the purchase, exchange, lease, or value of real property, as an open meeting on this matter may have a detrimental effect on the negotiating position of the body. By roll call: Tavares – yes, Mahoney – yes, Brewster – yes, and Muratore – yes.

Chairman Muratore noted that, following executive session, the Board would not reconvene in open session.

Recorded by Tiffany Park, Clerk to the Board of Selectmen

A copy of the June 26, 2012 meeting packet is on file and available for public review in the Board of Selectmen's office.