

# ~ PLYMOUTH BOARD OF SELECTMEN ~

**TUESDAY, JULY 2, 2013**

TOWN HALL, MAYFLOWER ROOM

The Selectmen held a meeting on Tuesday, July 2, 2013 at 6:00 p.m. at Town Hall in the Mayflower Room.

Present: Mathew J. Muratore, Chairman  
Belinda A. Brewster, Vice Chairman  
John T. Mahoney Jr.  
Kenneth A. Tavares  
Anthony F. Provenzano Jr.

Melissa Arrighi, Town Manager  
Michael Galla, Assistant Town Manager

## **CALL TO ORDER**

Chairman Muratore called the meeting to order at 6:05 p.m.

## **EXECUTIVE SESSION**

The Selectmen voted to enter an executive session pursuant to Massachusetts General Laws, Chapter 30A, Section 21, Paragraph 3, to discuss strategy with respect to collective bargaining, as an open meeting on this matter may have a detrimental effect on the negotiating position of the body. Chairman Muratore noted that that Board would reconvene in open session, following executive session.

## **RETURN TO OPEN SESSION**

Chairman Muratore reconvened the meeting in open session at 7:10 p.m. and led the Pledge of Allegiance.

Chairman Muratore took a moment to acknowledge the recent passing of John Breen, a former member of the Planning Board and former Town Meeting Representative. He held a moment of silence in memory of Mr. Breen and extended the Board's condolences to Mr. Breen's family, friends, and colleagues.

## **TOWN MANAGER'S REPORT**

**Fishermen Shacks on Warren Avenue** – Town Manager Melissa Arrighi reported that the Town is considering what action it should take regarding three vacant shacks located

on Warren Avenue, across from the entrance to Plymouth Beach. These shacks, she explained, were constructed prior to 1891 and are some of the few remaining fishing shacks in Plymouth. Relocated in 1949 from the Bert's Restaurant parking lot to the current location at 133 Warren Avenue, the abandoned and already-deteriorating structures sustained significant damage from storms over this winter.

Ms. Arrighi informed the Board that the land on which the shacks are situated is owned by the Town, but the ownership of the actual structures remains unknown. Following years of discussion on the potential hazard of these vacant structures, she said, staff recently consulted with Town Counsel, who advised staff to post a notice asking any person or group claiming ownership of the buildings to contact the Town Manager's Office, immediately. Should no individual or group come forward, Ms Arrighi explained, the Town could pursue the demolition of the buildings in 60 days. Since the posting, she noted, one resident has come forth to claim ownership of one of the structures, and the Assistant Town Manager is working with Lee Hartmann (Planning Director) and Donna Curtin of the Antiquarian Society on possible options to relocate and preserve these structures. Ms. Arrighi assured the Board that the Town would delay demolition of the structures and actively pursue a preservation alternative, if a feasible alternative to demolition is identified quickly.

**Application for Medical Marijuana Dispensary in Plymouth** – Ms. Arrighi confirmed that the Department of Inspectional Services has received a Commercial & Industrial Zoning application for a medical marijuana (growing and dispensing) facility at 30 Industrial Park Road. Based on the information supplied in the application, she reported, the facility will encompass a patient consulting office, two dispensary offices, and a growing space in the warehouse section. The Director of Inspectional Services has indicated that this type of facility will likely be considered an allowed use under current zoning, though he plans to do further research before making a final determination.

Ms. Arrighi reminded the Board and the public that a medical lab or clinic is an allowed use within the Town's general commercial zones. Though some residents might want the Town to create an overlay district to force these particular medical dispensaries into one specific area of town, she said, staff is not recommending such a measure, as there is no tried-and-true mechanism for determining what neighborhood or village center would be best for the dispensing of medical marijuana. Ms. Arrighi noted that some municipalities have adopted two-year moratoriums on dispensary applications, but such a measure, she said, would simply delay the difficult process of having to determine a suitable location in our community for these types of businesses.

**Speed Limits on South Meadow Road** – Ms. Arrighi brought the Board's attention to concerns brought forth by a group of West Plymouth residents about speeding on South Meadow Road. The group, led by South Meadow Road resident Ken Laytin, requested additional speed limit signage to increase compliance and reduce speeding.

Ms. Arrighi informed the Board that the speed limit on South Meadow Road has been posted at 30mph for a number of years—possibly decades. Following a complaint from

an individual who questioned the legality of 30mph speed limit on that road, she said, the Town Engineer investigated the roadway classification and discovered that the 30mph speed limit posting was not consistent with the Town's *Traffic Rules & Regulations*. Simply put, Ms. Arrighi explained, the Town Engineer determined that the 30mph speed limit on South Meadow Road was not enforceable, and, thus, the signs were removed and replaced with regulatory-compliant and legally enforceable limits of 35 and 40mph.

Unfortunately, Ms. Arrighi explained, there was a lapse in communication between the Town and the neighborhood residents, who were understandably upset to see that the Town installed higher speed limits, when they had requested better enforcement of the 30mph posted limits. Ms. Arrighi reported that she has offered to meet with representatives from the neighborhood to explain the situation and discuss how communication can be improved in the future. She indicated that she will request additional radar patrols on South Meadow Road and explore whether the Town can legally implement and enforce lower speed limits on arterial roadways.

**Sale of Solid Waste Services** – Ms. Arrighi reported that, as of July 2, 2013, 3,488 residents have purchased the curbside solid waste option, while 3,072 residents have chosen the transfer station option (amounting to a 53/47% split). Staff, she said, will keep an eye on the number of residents choosing the transfer station option, to ensure that the Manomet Station is adequately equipped to handle the number of anticipated customers, once the South Street and Cedarville Stations close on December 31, 2013.

**Update on 1820 Courthouse Feasibility Study** – Ms. Arrighi informed the Board that the architectural firm of Durkee, Brown, Viveiros & Werenfels of Providence, Rhode Island has already accomplished much on the feasibility study for relocating the Town's municipal operations to the 1820 Courthouse site. The departmental space-need surveys have been completed, she noted, and staff has provided the architectural firm with an in-depth tour of the Courthouse, Commissioners Building, old Police Station, and School Administration Building in West Plymouth. Ms. Arrighi indicated that she will assemble a detailed timeline for the feasibility study, noting that she intends to schedule a presentation on the final report for early September.

## **COMMITTEE LIAISON / DESIGNEE UPDATES**

The members of the Board did not offer any committee liaison / designee reports.

## **PUBLIC COMMENT**

Marlene Von Goeler, member of the Herring Pond Watershed Association, encouraged the Board to pursue the purchase of property located near the Herring Pond Watershed (also known as the "Keese property," which was formerly designated under Chapter 61 status). The parcel, she said, is located off Carter's Bridge Road along Carter's Brook, which connects Great Herring Pond and Little Herring Pond. Ms. Von Goeler stated her

understanding that the Town had previously done a great deal of work—with grants from the Office of Coastal Zone Management—to mitigate storm runoff and protect the wetland/watershed area, and, thus, she questioned why the Town would pass on the opportunity to acquire such an ecologically-sensitive piece of property.

Bill Keohan spoke to the Board as both a resident and member of the Community Preservation Committee on the matter of the fisherman shacks on Warren Avenue. Mr. Keohan stated that, since the posting of the demolition-notice signs, there have been families who have come forth to claim the structures. As such, he said, the committee is discussing potential preservation initiatives for smaller locations like the Little Red Schoolhouse, the gazebo at Cordage Park, and the fisherman shacks. The shacks, he said, have significance to Plymouth's history, and, thus, the committee hopes to preserve the structures with no lingering expense to the Town.

Jerry Benezra reiterated the comments that he had previously made during recent Selectmen's meetings regarding the Chapter 61 "right-of-first-refusal" process and the opportunity that he feels the Town recently missed with the Keese property near Little Herring Pond. Mr. Benezra, citing his experience as an attorney, expressed his opinion that the Town was not given proper legal notice by the property owner, therefore nullifying the process and right-of-first-refusal timeline associated with the sale of properties falling under the Chapter 61 designation. He urged the Board to schedule a formal discussion on the matter, and he asked to see Town Counsel's opinion on the way the Town was advised to handle the Chapter 61 process with this particular piece of property.

Ken Laytin thanked the Town Manager for her efforts to try to resolve the issue with the speed limits posted on South Meadow Road. The roadway—especially the straightaway section—has become a speedway, he said, despite the fact that 30mph signs have been posted there for years. Mr. Laytin offered his observation that traffic has increased significantly along South Meadow Road, as a result of increased business activity at the Plymouth Municipal Airport and the use of the road by the trucking industry as an alternate route from the old Route 44. Numerous accidents have occurred along South Meadow Road over the years, he said, including some that have resulted in cars on residential lawns and one incident of a collision into a resident's dining room.

Mr. Laytin then turned his comments to the Airport Commission (on which he serves) and the composition of the Commission's membership. Following the work done by the Plymouth Airport Advisory Group to reach consensus on the Airport Master Plan, he said, it was his understanding that the Board of Selectmen decided to add two seats on the Airport Commission for neighborhood / West Plymouth residents. Mr. Laytin expressed his concern that the recent appointment of a new member to one of those seats has added an individual with an interest in aviation, rather than a neighborhood / West Plymouth resident.

Chairman Muratore explained that, when the Board voted to add two additional seats to the Airport Commission, it did not specify that those seats be held by West Plymouth residents. The Selectmen's Assistant, Tiffany Park, affirmed this. Should the Airport

Commission wish to specifically reserve two of its seats for West Plymouth residents, Chairman Muratore said, the Commission may formally request that the Selectmen do so.

Fred Guerrero of South Meadow Road informed the Board that his dog was killed by a speeding vehicle while he was walking the dog out to the roadside mailbox. Imagine if this was a child, he said. South Meadow Road has become a high-speed shortcut for motorists traveling through West Plymouth, Mr. Guerrero stated, and it is becoming increasingly difficult and unsafe for residents to turn in and out of their driveways. Churches, playgrounds, daycare centers, and residences exist all along South Meadow Road, he asserted, constituting a reasonable justification for the maintenance of 30mph signage and the repair and proper marking of the road.

Dennis White of Little Herring Pond Road talked about the environmental importance of the Keese property (off Carter's Bridge Road), and he questioned the process that the Town followed when offered the right-of-first-refusal on the Chapter 61-designated parcel.

Russell Shirley of Precinct 11 expressed dismay about the excessive grading and clearing work that was recently done at the High Rock Cranberry Crescent development area on Route 80. The developer, he said, appears to have completely ignored its permit protocols—essentially leveling the vegetative buffer around the site—against the wishes of the Planning Board, Zoning Board of Appeals, and West Plymouth Steering Committee. Mr. Shirley expressed his opinion that the Building Inspector should not allow further work at this development without requiring a complete site plan review before the Planning Board. As a Town Meeting member who voted for a Tax Increment Financing (“TIF”) on this property, Mr. Shirley said that he was “appalled” at what the developer did.

## **UPDATE ON JULY 4<sup>TH</sup> PARADE & FIREWORKS EVENTS**

Ken Tavares provided an introduction to July 4 Plymouth, Incorporated's last update prior to the 2013 July 4<sup>th</sup> festivities.

Zelda MacGregor informed the Board that July 4 Plymouth, Inc. was pleased with the results of its first annual fundraiser at The New World Tavern on June 24, 2013. She thanked The New World Tavern and Mayflower Brewing Company for their generosity, as well as those who attended the event.

Jim Veneto and Anne Marie Winchester provided the Board with information on the Independence Day 5k road race event that they will produce, in conjunction with the July 4<sup>th</sup> celebration events. Ms. Winchester noted that she and Mr. Veneto will be making a financial contribution to the July 4<sup>th</sup> parade and fireworks events from the proceeds from the race. The race, she said, will depart from 367 Court Street near Cordage Park and follow the parade route south on Route 3A to Water Street, eventually finishing at Plymouth Rock. Ms. Winchester assured the Board that the race will not affect the viewing of the parade, noting that the race route will be cleared and cleaned prior to the start of the July 4<sup>th</sup> events.

Jeff Metcalfe announced that volunteers are still needed to assist with the various facets of the parade. The parade, he stated, will assemble in the parking lot of the former Stop & Shop location near the Plymouth/Kingston boundary at 8:00 a.m. Mr. Metcalfe encouraged parade attendees to look for the pedi-cabs traveling along the parade route, as they will be collecting donations towards the parade and fireworks events.

Mark Wells, treasurer for July 4 Plymouth, Inc., provided a quick update on the amount of funds raised for the July 4<sup>th</sup> events, to date. Mr. Wells reported that the organization has raised \$103,000 in pledges and donations, only \$2,000 shy of the fundraising goal. The projected expenses for the parade and fireworks events are estimated at \$98,000, he said, so if all the pledges are received, there may be a small surplus to apply to next year's celebration. Mr. Wells noted that Entergy and Cabby Shack were two of the major donors to the event, along with the Plymouth Growth & Development Corporation, Visitor Services Board, and Town of Plymouth. He encouraged citizens to consider making a donation when the pedi-cabs pass by along the parade route.

Julie O'Neil from July 4 Plymouth, Inc. reminded the public that the donation collectors along the parade route will be wearing the official 4<sup>th</sup> of July event t-shirts with July 4 Plymouth, Inc.'s logo. Ms. O'Neil cautioned the public against making a donation to anyone along the parade route who is not wearing the official July 4 Plymouth, Inc. t-shirt.

Following some brief remaining discussion, the Board thanked Mr. Tavares and the members of July 4 Plymouth, Inc. for their dedicated work in producing the annual parade and fireworks events.

## **LICENSES**

*[Note: Selectman Tavares stepped out of the meeting room and was not present during the votes taken on the following licenses.]*

### **PEDI-CAB OPERATOR**

On a motion by Vice Chairman Brewster, seconded by Selectman Provenzano, the Board voted to approve a Pedi-Cab Operator License for each of the following applicants. Voted 4-0-0, approved.

#### **❖ For Plymouth Pedicab:**

- Mary Perry, 10 Fairview Street, Hingham, MA
- Caitlin Ford, 32 Shadwell Road, Scituate

Issuance of the above licenses is subject to the completion of all necessary paperwork and review of the requisite CORI background check.

## **CLASS II AUTO DEALER (NEW)**

On a motion by Selectman Provenzano, seconded by Selectman Mahoney, the Board voted to grant a Class II Auto Dealer License to the following applicant, as detailed, below. Voted 4-0-0, approved.

- ❖ **Aero Motorcars**, 30 Industrial Park Road, Matthew J. Meyer, Owner

Office transactions from this location only. No display of vehicles at this address.

## **ONE DAY ALL ALCOHOL LICENSE\***

On a motion by Vice Chairman Brewster, seconded by Selectman Provenzano, the Board voted to grant a One Day All Alcohol Liquor License to the following applicant, as detailed, below. Voted 4-0-0, approved.

- ❖ **Heather Gifford & Amy Smyth** (58 Nicks Rock Road) requested a One Day All Alcohol Liquor License for a private anniversary party to be held on July 6, 2013 from 4:00 to 8:00 p.m. in the Blue Room at Memorial Hall (83 Court Street).

On a motion by Vice Chairman Brewster, seconded by Selectman Mahoney, the Board voted to grant a One Day All Alcohol Liquor License to the following applicant, as detailed, below. Voted 4-0-0, approved.

- ❖ **Joe Young** (7 Pimental Way, Plymouth) is requested a One Day All Alcohol Liquor License for a family party to be held on July 14, 2013 from 3:00 to 6:00 p.m. in the Blue Room at Memorial Hall (83 Court Street).

Liquor Liability will be in place before these 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.

## **ONE DAY WINE & MALT LICENSE\***

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

- ❖ **Phil Ryan / American Legion** (199 Federal Furnace Road) requested a One Day Wine & Malt Liquor License for an event to be held from 6:00 to 10:00 p.m. on July 3, 2013 at Memorial Hall (83 Court Street).

Liquor Liability will be in place before this license is 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.

*[Note: Selectman Tavares returned to the meeting room prior to the following discussion and vote.]*

## **OUTDOOR AMPLIFIED MUSIC PERMIT (BUSINESS)**

- ❖ **Nix's Plymouth** (6 Town Wharf) requested an Outdoor Amplified Music Permit for live bands, acoustic performers, and/or DJ's, potentially seven days per week, 11:00 a.m. through 12:30 a.m. on its outdoor patio.

Chairman Muratore invited representatives from Nix's Plymouth to answer questions regarding the permit application for Outdoor Amplified Music. Attorney Steve Triffletti and Christina McSharry (Nix's General Manager) appeared before the Board on behalf of Nix's Plymouth.

Attorney Triffletti explained that, as a result of the recent completion of the outdoor area at the restaurant establishment, the owners would like to offer outdoor entertainment for their patrons. Nix's Plymouth, Attorney Triffletti said, is simply asking to be treated like all the other restaurant establishments in the waterfront area that hold Outdoor Amplified Music Permits during similar hours. The patio at Nix's, he noted, faces in the direction of the ocean, not towards any residential units, and the nature of the entertainment would be a DJ or some type of band. Attorney Triffletti stated his understanding that the Selectmen have granted such licenses in the past, with the understanding that any concerns regarding the permitted activity would be dealt with, afterward.

In response to a question from Vice Chairman Brewster, Attorney Triffletti affirmed that Nix's Plymouth has requested permission for outdoor entertainment during the hours of 11:00 a.m. through 12:30 a.m., seven days per week. Though entertainment will not likely take place outdoors every day of the week, he said, the restaurant's owners would like to have the option of scheduling music on holidays or for special events that may fall on a weekday.

Vice Chairman Brewster cautioned the owners of Nix's Plymouth to consider the large community of boaters in Plymouth Harbor who may not want to be subjected to loud music (traveling over the water) while they stay on their boats, overnight.

Selectman Mahoney made a motion to grant an Outdoor Amplified Music Permit to Nix's Plymouth, as requested in the license application. Selectman Provenzano seconded the motion, and the Board voted 3-0-2 in favor. Vice Chairman Brewster and Selectman Tavares chose to abstain from the vote.

## **ADMINISTRATIVE NOTES**

**Meeting Minutes** – The Board approved the minutes of the April 23, 2013 Selectmen's meeting. *[Note: Selectman Tavares abstained from this vote, as he was unable to attend*



*the April 16<sup>th</sup> meeting. Selectman Provenzano abstained from this vote, as he was not a member of the Board at the time of this meeting.]*

**Year-End Appropriation Transfers** – The Board approved the following End-of-Year Appropriation Transfers:

- \$6,975.48 from Harbormaster Salaries & Wages to Harbormaster Repair & Maintenance
- \$45,000.00 from Police Department Salaries & Wages to Town Clerk Special Elections

**Airport Grant Assurances** – The Board approved a set of *Grant Assurances* between the Town of Plymouth and the Massachusetts Department of Transportation Aeronautics Division for improvements at the Plymouth Municipal Airport.

**Reduce Membership on SMART Committee** – The Board reduced the membership on the Save Money And Recycle Trash (“SMART”) Committee from nine (9) members to seven (7) members, as requested by the clerk of the committee.

**Enlarge Membership on Affordable Housing Trust** – The Board added one seat for a citizen-at-large to the Affordable Housing Trust, as requested by the Office of Community Development.

## **CHAPTER 61 LANDS – INTERNAL PROCEDURES**

Ms. Arrighi introduced a discussion on internal procedures relating to the Chapter 61 right-of-first-refusal process. She introduced Betsy Lane of Kopelman & Paige, P.C. (Town Counsel), who was present to provide legal information on the process.

Assistant Town Manager Michael Galla led the presentation on the internal procedures that he developed for the administration of properties that are proposed for conversion or sale from M.G.L. Chapter 61, 61A, or 61B tax designation status. The procedure, he said, will help to ensure that all groups and departments are properly notified of Chapter 61 notices. In addition, the procedure and newly-created checklist system will help the Town Manager’s Office to track the process and meet the complex statutory deadlines associated with Chapter 61.

Mr. Galla reiterated that the Town Manager’s Office will now be administering the Chapter 61 right-of-first-refusal process on behalf of the Town. Mr. Galla indicated that he will be the point-person responsible for ushering the notice through the new internal checklist process.

Mr. Galla reviewed the details of the new internal procedures, noting that any time a notice to sell or convert a Chapter 61-designated property is delivered to the Town, it will be listed as a recurring agenda item under “Old Business / Letters / New Business” during each Selectmen’s meeting (until the process is complete). There are two checklists, he said:

one for notices to convert, and one for notices to sell. Mr. Galla then talked about the various pieces of information that constitute an official complete notice, and he discussed the timelines associated with notices, appraisals, negotiations, declinations, and options to exercise the right-of-first-refusal.

At the close of Mr. Galla's presentation, Attorney Betsy Lane responded to questions from the Selectmen regarding the statutory fundamentals of Chapter 61 law, including the timeline requirements for appraisals and the elements that constitute a complete, legal notice of intent to convert or sell. Attorney Lane discussed the changes that legislators made to Chapter 61 in 2006 that helped to further clarify the complexities of the Chapter 61 right-of-first-refusal process. In cases where there is a notice to sell, she explained, there are three parties: the Seller, the Buyer, and the Town. If the Town believes that it has received a defective notice from the Seller, it has an obligation to notify the other parties of its determination.

Discussion turned to the process followed for the Chapter 61-designated parcel of land located off Carter's Bridge Road near Little Herring Pond, otherwise known as the Keese property (owned by Kristine Keese). Attorney Lane noted that the first she had heard about the Keese property was at the 2013 Spring Annual Town Meeting. At the time, she said, she did not have much information on the matter, but there appeared to be a lack of enthusiasm on the part of the Town to acquire the parcel. In the event that the Board wishes to assert that a notice given for a particular property is defective—in cases such as the Keese property—there are occasions when it may be possible to restart the clock on the Chapter 61 process.

In response to questions from Vice Chairman Brewster, Ms. Arrighi explained that the Board of Selectmen does not need to wait for Town departments or committees to determine whether there is interest in a parcel of Chapter 61 land—though the interest is typically generated by these two groups. Ms. Arrighi explained that, following the events related to the Keese property, she decided to have her staff supervise the Chapter 61 process, directly.

Attorney Lane explained the difference between a notice to convert and a notice to sell. In response to inquiries from Selectman Mahoney, Attorney Lane indicated that the Board of Selectmen could have voted to exercise its right of first refusal on the Keese property, thereby extending the process by 90 days to identify a funding source for the purchase.

Lee Hartmann, Planning Director, responded to questions from Chairman Muratore about the number of properties that are currently under Chapter 61 designation in Plymouth and the ways by which the Town can ensure that the property is being used as it is designated. Mr. Hartmann stated that there are approximately 10,000 acres that fall under the tax-deferred Chapter 61 status, most of which are cranberry bogs. The Assessor's Office is responsible for supervising properties designated under Chapter 61.

Chairman Muratore opened the discussion to questions or comment from the audience.

Bill Keohan from the Community Preservation Committee (“CPC”) talked about the interest that his committee has in Chapter 61 lands, whereby certain parcels of environmentally sensitive open space might be worthy of purchase. The CPC often seeks the advice of David Gould (Director of Marine & Environmental Affairs) and Valerie Massard (Senior Planner) in these matters, he noted, but the refined procedures presented by the Town Manager will help to improve the process, even further. Should the Town need assistance with the funding of appraisals on Chapter 61 lands, Mr. Keohan stated, the CPC may be able to help.

Selectman Tavares asked for a streamlined and simplified explanation of the process followed on the Keese property and the steps that may have been missed on that particular opportunity. Chairman Muratore agreed, noting that it has been difficult for the Board to gain an understanding of how the process may have failed amidst the varying opinions and legal interpretations that have been given, after-the-fact.

Ms. Arrighi explained that, with the Keese property, there were certain departments and committees that were inadvertently overlooked in the notification process. As time passed with no indication of interest in the property, it naturally appeared as if the Board would simply allow the right-of-first-refusal time period to expire. Ms. Arrighi reiterated that the new procedures developed by the Assistant Town Manager will help to avoid such mistakes in the future, but with so many details involved in so many different municipal processes, she noted, there is no guarantee that such an oversight could not happen again.

In response to an inquiry from Chairman Muratore, Attorney Lane addressed the questions that had been brought forth to the Selectmen by Plymouth resident Jerry Benezra about the Town’s management of the Keese property notice. Attorney Lane noted that some of the information that Mr. Benezra presented to the Board was inaccurate, and she advised the Board against pursuing costly litigation to prove whether or not the notice on the Keese property was delivered to the Town properly.

Selectman Mahoney stated that he was very concerned about the way he believes staff handled the notice for the Keese property. While he was pleased to see that the Town Manager has tightened the policies and procedures relative to Chapter 61 lands, he expressed his disappointment that the Town did not act on the opportunity to acquire the Keese property and protect the Herring Pond Watershed. Selectman Mahoney offered his opinion that, in conjunction with the new Chapter 61 procedures, the Town should be proactively seeking discretionary funds from Town Meeting to be prepared to act, in the event that a time-sensitive opportunity arises. If he had known better, he said, he would not have voted to decline the right of first refusal on the Keese property during the May 28, 2013 meeting.

Chairman Muratore stated his understanding that the 120-day right-of-first-refusal timeline for the Keese property had already expired on May 9, 2013, rendering the Board’s May 28<sup>th</sup> vote to formally decline the right of first refusal as after-the-fact.

Discussion temporarily turned to the offer that was made by Community Preservation Committee Chairman Bill Keohan for assistance with funding for Chapter 61 land

appraisals. Selectman Tavares sought to ensure that there would be a mechanism in place to fund Chapter 61 appraisals, in any instance where the CPC could not—or would not—fund a particular appraisal. Ms. Arrighi expressed appreciation for Mr. Keohan’s proposal but agreed with Selectman Tavares that the Town should maintain its own a line item for such appraisals. Attorney Lane concurred that the Town should maintain responsibility for funding Chapter 61 appraisals.

At the close of the discussion, Vice Chairman Brewster returned to Chairman Muratore and Selectman Mahoney’s earlier mention of the May 28<sup>th</sup> vote to decline the Town’s right of first refusal on the Keese property. Chairman Muratore explained that the Town’s 120-day timeline to exercise the Board’s right of first refusal had already expired on May 9, 2013. Attorney Lane explained that, had the Board voted prior to May 9, 2013 to exercise its option to purchase the property, the Town would have been allowed 90 days to execute a Purchase & Sale agreement. Selectman Mahoney stated that, had he known that the Board would have 90 additional days to execute a purchase agreement, he would have taken different action.

## **CHAPTER 61 NOTICE OF INTENT TO CONVERT**

BOURNE ROAD, ASSESSORS MAP 129, LOTS 10A AND 11; OWNER: THE GARLAND HOLDING COMPANY, LLC

The Board held a discussion on a 23.5-acre parcel of Chapter 61-designated land off Bourne Road, identified as Lots 10A and 11 on Assessor’s Map 129 (owned by The Garland Holding Company, LLC).

Bill Keohan, Chairman of the Community Preservation Committee (“CPC”), noted that the Wildlands Trust has expressed interest in this particular piece of property, as it abuts preservation land already owned by the Trust. As such, Mr. Keohan said, the CPC would like the Town to pursue an appraisal on the property.

The Board discussed the potential merits of acquiring the 23.5-acre parcel. Ms. Arrighi indicated that the School Department has been notified of this opportunity, in the event there may be a future need to establish school facilities to serve the growing population of South Plymouth. She advised the Board to be aware of the potential for competing interests on Chapter 61 parcels, whereby the Selectmen could seek funding at Town Meeting for one use of a particular piece of property, while the CPC could sponsor an article to do something different with the very same parcel.

Some discussion ensued as to what might happen in the case of multiple competing interests on a particular piece of Chapter 61 property. Ms. Arrighi noted that the Town Meeting warrant belongs to the Selectmen, who could ultimately refuse to include a competing request. Ms. Arrighi expressed her concern that, if the CPC were to pay for an appraisal, there may be an assumption that they would have the dominant interest in the property.

Chairman Muratore opened the discussion to public comment.

Don Williams informed the Board that, in his experience with working on similar municipal issues, the Town's professional staff should be the driving force behind determining what Chapter 61 parcels should be pursued, rather than a volunteer committee.

Paul Withington of the Community Preservation Committee expressed his opinion that the CPC will not likely have interest in funding an appraisal for property that would not be ultimately acquired for preservation as open space.

At the close of discussion, Ms. Arrighi assured the Board that staff would follow its new Chapter 61 procedures with regards to this parcel. The topic, she said, will be scheduled as a recurring item on each subsequent agenda, until a final determination can be reached.

## **OLD BUSINESS / LETTERS / NEW BUSINESS**

**Removal of Buffer along High Rock Cranberry Crescent Development** – Referring to comments made earlier in the evening by Russell Shirley, Selectman Tavares said that he, too, was shocked by what has transpired at the High Rock Cranberry Crescent development site on Route 80. Both the State and the developer share responsibility in the removal of trees and earth from the protective buffer along the site, he said, which was supposed to be maintained at the specific directive of the Town. Selectman Tavares advised the Board to schedule a discussion on the matter at its next meeting, to determine what action the Town might take to ensure that the developer corrects the mistake.

Planning Director Lee Hartmann informed the Board that his staff has spent a considerable amount of time on this matter. With regard to the events that led to this issue, Mr. Hartmann noted that there were two groups involved in the work that was done, one being the developer and the other being the Massachusetts Department of Transportation. The High Rock Cranberry Crescent development project was approved, he said, subject to a number of conditions—one of which being that the developer must come back before the Zoning Board of Appeals (“ZBA”) with a final site design. Unfortunately, Mr. Hartmann said, the vegetation and berm are now gone, but the Town has notified the developer that it must return before the ZBA with plans to address the mistake; the developer cannot do anything further at the site until the ZBA is satisfied with the final plans for the project.

Selectman Tavares made a motion that the Board issue a letter to the developer of High Rock Cranberry Crescent, expressing its deep unhappiness over what transpired at the Route 80 site and encouraging the developer to restore the roadway to a condition that is more acceptable. Selectman Mahoney seconded the motion, and the Board voted 5-0-0 in favor.

**Old Colony Club Event on Coles Hill** – Vice Chairman Brewster informed the public that the Old Colony Club will recite the Declaration of Independence at the top of Coles Hill at 8:00 a.m. on July 4<sup>th</sup>. The Club will then fire off three small cannon blasts, she

noted. Selectman Tavares indicated that he would notify the organizers of the Independence Day 5k Road Race, so that they can make race participants aware of the scheduled cannon fire.

**Plymouth Voted One of Massachusetts' Best Communities** – Chairman Muratore was pleased to note that Plymouth was voted #3 on GoLocalWorcester.com's list of Massachusetts' best communities.

## **ADJOURNMENT OF MEETING**

On a motion by Selectman Provenzano, seconded by Selectman Mahoney, the Board voted to adjourn its meeting at approximately 9:50 p.m. Voted 5-0-0, approved.

*Recorded by Tiffany Park, Clerk to the Board of Selectmen*

*A copy of the July 2, 2013 meeting packet is on file and available for public review in the Board of Selectmen's Office.*