

~ PLYMOUTH BOARD OF SELECTMEN ~

TUESDAY, OCTOBER 7, 2014

TOWN HALL, MAYFLOWER ROOM

The Selectmen held a meeting on Tuesday, October 7, 2014 at 6:30 p.m. at Town Hall in the Mayflower Room.

Present: Kenneth A. Tavares, Chairman
Anthony F. Provenzano Jr., Vice Chairman
John T. Mahoney, Jr.
Mathew J. Muratore
Sean P. Page

Melissa Arrighi, Town Manager
Michael Galla, Assistant Town Manager

CALL TO ORDER

Chairman Tavares called the meeting to order at 6:30 p.m.

EXECUTIVE SESSION

On a motion by Vice Chairman Provenzano, seconded by Selectman Page, the Board voted to enter executive session pursuant to Massachusetts General Laws, Chapter 30A, Section 21, Paragraph 3, to discuss strategy with respect to litigation, as an open meeting on this matter may have a detrimental effect on the negotiating position of the body. By roll call: Muratore – yes, Mahoney – yes, Provenzano – yes, Page – yes, and Tavares – yes.

Chairman Tavares noted that, following executive session, the Board would reconvene in open session.

RETURN TO OPEN SESSION

Chairman Tavares reconvened the meeting in open session at 7:03 p.m. and led the Pledge of Allegiance.

Prior to commencing the evening's agenda, Chairman Tavares called for a moment of silence in memory of Chris Schembri, who served as the first director of the Plymouth Council on Aging for over 30 years until his retirement in 2003. Mr. Schembri, he noted, worked to establish a new senior center and forged the COA's first agreements with Old Colony Elder Services for the Meals on Wheels nutrition program.

TOWN MANAGER'S REPORT

Massachusetts Commission Against Discrimination Training – Town Manager Melissa Arrighi informed the Board that the Massachusetts Commission Against Discrimination (“MCAD”) held a recent training session on “Preventing and Addressing Work Place Discrimination.” A number of Department and Division Heads were sent to the training, she said, which was arranged by the Town’s insurance carrier, the Massachusetts Interlocal Insurance Association (“MIIA”).

Municipal Open Checkbook Program – Ms. Arrighi recommended that residents take a moment to view the municipal “Open Checkbook” program that is now available through the Town’s website. The program, she explained, provides access to information on the Town’s expenditures for current and previous fiscal years.

LICENSES

CHANGE OF HOURS (PACKAGE STORE LICENSE)

The Board acknowledged the receipt of notices from the following holders of an All Alcohol Package Store License. Pursuant to new state regulations related to the sale of alcoholic beverages on Sundays, these establishments have requested a change in opening hours on Sundays from 12:00 p.m. to 10:00 a.m.*

- ❖ Joseph Perry’s Market Inc. (200 Standish Avenue)
- ❖ Karagosian Corp. d/b/a Plymouth Liquors (101 B Carver Road)
- ❖ Manomet Liquors Inc. (2291 State Road)
- ❖ Verc Enterprises Inc. d/b/a Verc Exxon (131 Commerce Way)
- ❖ T.M.C.C. Inc. d/b/a Bradford’s Package Store (230 Sandwich Street)
- ❖ Plymouth Liquors d/b/a Liquor N’ More (35 Home Depot Drive)

* Effective October 23, 2014, off-premises retail alcoholic beverage licensees will be permitted to sell alcoholic beverages beginning at 10:00 a.m. on Sundays. Under the law, these licensees are entitled as a matter of right to open at 10:00 a.m. and, as such, these licensees do not need the approval of the Local Licensing Authorities, but establishments must notify the Local Licensing Authorities about the change of hours.

ADMINISTRATIVE NOTES

Meeting Minutes – On a motion by Selectman Page, seconded by Vice Chairman Provenzano, the Board voted to approve the minutes of the July 15, 2014 Selectmen’s meeting. Voted 5-0-0, approved.

2015 Spring Annual Town Meeting Warrant – On a motion by Selectman Muratore, seconded by Selectman Mahoney, the Board voted to open the Warrant for the 2015 Spring

Annual Town Meeting on Tuesday, October 28, 2014 and close the Warrant at 4:00 p.m. on Wednesday, December 17, 2014. Voted 5-0-0, approved.

Article 31 / Demolition Delay – On a motion by Vice Chairman Provenzano, seconded by Selectman Page, the Board voted to reaffirm its vote to recommend Article 31 (Demolition Delay Bylaw) to the 2014 Fall Annual Town Meeting, reflecting updated bylaw language from Town Counsel. Voted 5-0-0, approved.

Land Exchange Agreement with The Pinehills – On a motion by Selectman Muratore, seconded by Selectman Mahoney, the Board voted to approve and execute a *Land Exchange Agreement* with Pinehills, LLC pertaining to property situated off Old Sandwich Road and Manomet Road, as authorized by Article 27A of the 2013 Fall Annual Town Meeting (Town of Plymouth Communications Tower).

PUBLIC COMMENT

Mary LeSueur of the Plymouth Area League of Women Voters (“LWV”) relayed the LWV’s concerns about the protection of Plymouth’s water resources. In early 2014, she said, the Board of Selectmen rejected a citizens’ petition for the establishment of a “Plymouth Water System Committee,” based on a question of whether the language of the petition was legally valid. The Town Manager, she claimed, promised to form a water resource-focused committee, following the dismissal of the petition. Ms. LeSueur stated that the LWV believes that Plymouth should establish a Water Resource Committee to develop a plan for the management and sustainability of the Town’s water resources, and she asked the Board to set a timetable for the creation of such a committee.

Kevin Cyr of Plymouth expressed concern that the Town of Plymouth is considering the taxation of medical marijuana. Mr. Cyr explained that, as someone who suffers with chronic pain from a significant accident, he believes there are citizens who can legitimately benefit from medical marijuana. The implementation of a tax on medical marijuana, he cautioned the Board, will simply drive up the price for those who truly need the medication.

Robert Spencer asked the Town to address the faded lane markings at the intersection of Court and Samoset Streets.

Everett Malaguti III informed the Board that litter that has accumulated along the northwest corner of the new Water Street rotary. On a separate matter, Mr. Malaguti asked if the Town’s Parking & Traffic Task Force has discussed the narrowness of Cordage Terrace Extension.

Ms. Arrighi advised Mr. Malaguti to submit his concerns formally, in writing, so that the Parking & Traffic Task Force has a clear explanation and understanding of the request.

Megan Collins-Dempster expressed concern regarding dissension amongst the members of the Simes House Foundation. As a Town Meeting Member who voted in favor of funding

the Simes House project, Ms. Collins-Dempster offered her observation that the project is becoming more and more of a private endeavor, rather than the community project it was originally intended to be. She advised the Board to consider an exit strategy, if the members of the Simes House Foundation no longer have the best interests of Manomet or the Town in mind.

Frank Collins echoed the concerns outlined by Ms. Collins-Dempster, noting his belief that the current directors of the Simes House Foundation have steered the organization's agenda in a new direction that does not include the Foundation's original founder and president, Randy Parker.

Sonia Barboza, operator of the Sandpiper Inn, thanked Randy and Mary Ellen Parker for their efforts to initiate and sustain the Simes House project. Without the Parkers, she said, the Simes House would no longer exist. Ms. Barboza expressed her hope that the Parkers will remain in charge of the Simes House Foundation.

Kevin Doyle of Beach Street also spoke of the discord that appears to be occurring amongst the members of the Simes House Foundation. As a Town Meeting Member, Mr. Doyle recalled his impression of the vote to support the Simes House project, which, he said, was intended to be a community-based and transparent endeavor. Mr. Doyle stated his observation that the current members of the Foundation are moving the project away from (founder) Randy Parker's original vision. The residents of Manomet, he said, will not be happy if the project does not succeed, as originally intended.

Karen Buechs expressed concern that the members of the Simes House Foundation appear to be removing Randy and Mary Ellen Parker from leadership positions within the organization. Town Meeting was very gracious to give Manomet this opportunity, she said, and Randy Parker was the vision behind the project, from the start. Ms. Buechs discussed the Foundation's most recent meeting, at which, she said, there was much dissension and disrespect between the directors. Noting that she has little confidence in the current Foundation, as it stands, Ms. Buechs advised the Selectmen to consider taking back the Simes House and appointing a new board of directors.

Chairman Tavares stated that the Selectmen are in the information-gathering stage with regard to the Simes House. The Board knows the importance of this project to the Town, he said, and, thus, it intends to address all issues in a logical and fair manner.

UPDATE ON MANOMET YOUTH CENTER

Betty Cavacco, chairperson for Manomet Youth Center Working Group, provided an update on the group's efforts to establish a long term and sustainable plan for the operation, funding, and programming of the Manomet Youth Center ("MYC"). Ms. Cavacco indicated that the group is getting a great deal of support from the community, from businesses as well as individuals. The MYC Working Group will hold a membership drive at the Stop & Shop on State Road on October 11, 2014, she said, and a spaghetti supper fundraiser is planned at the John Alden Club on October 23, 2014. Ms.

Cavacco indicated that the MYC working group is also planning craft fair and “iron chef”-style fundraisers for Memorial Hall in the coming months. Home Depot, she noted, has offered to donate services and supplies for the refurbishment of the MYC. The working group, she said, also plans to apply for grants from Entergy and Verizon.

Ms. Cavacco issued a call for a local accountant or attorney who would be willing to help the MYC Working Group form a 501(c)(3) non-profit “Friends” organization.

Selectman Muratore was pleased to report that attendance within the weekday drop-in program has nearly doubled since the group’s efforts to increase membership. In addition, he said, the School Department has agreed to provide after-school bus service to the MYC from Manomet and Indian Brook elementary schools.

Chairman Tavares thanked Ms. Cavacco and the members of the MYC Working Group for their diligent efforts to support and enhance the drop-in program at the Manomet Youth Center.

FALL TOWN MEETING / RESPONSIBLE CONTRACTOR BYLAW

2014 FATM ARTICLE 7 – RESCIND 2004 ATM ART. 49 (RESPONSIBLE CONTRACTOR BYLAW)

Chairman Tavares invited Scott Gustafson of The Laborer’s New England Region Organizing Fund to speak about Article 7 of the 2014 Fall Annual Town Meeting, which proposes to rescind the Town’s Responsible Contractor Bylaw.

Mr. Gustafson indicated that, in 2004, he worked with Town officials and Town Meeting Members on the drafting of the Town’s Responsible Contractor Bylaw. At the time, he said, the construction industry was doing well, but with that success came corrupt contractors and poorly-managed projects—resulting in the provision of insufficient benefits for employees and the widespread employment of undocumented workers.

Mr. Gustafson cited the Plymouth South Middle School project as an example of a project that was not properly managed by the contractors hired to perform the work. Since the Town’s implementation of the Responsible Contractor Bylaw, he said, there have been no such problems with the Town’s construction projects. Citing the benefits of the bylaw, Mr. Gustafson urged the Board to reconsider the proposal to rescind the bylaw.

Mr. Gustafson acknowledged his understanding that Town Counsel has recommended the elimination of the Responsible Contractor Bylaw, because the bylaw is not legally enforceable, based on recent legal rulings at the federal level. Yet, rather than discarding the bylaw, altogether, he said, the Town should consider suspending or revising it, until changes are made at the federal level that will allow for the legality of responsible contractor bylaws. Mr. Gustafson stressed the importance of holding its hired contractors to important safety and employment standards. With the approval of the 1820 Courthouse/Town Hall Project, he said, the Town must ensure that it hires only the best contractors—and make it clear that it will not tolerate bad practices.

The Board discussed Mr. Gustafson's recommendation to suspend or revise the Responsible Contractor Bylaw, rather than eliminate it. Discussion centered around the feasibility—and legality—of suspending the Responsible Contractor Bylaw.

Selectman Mahoney agreed with Mr. Gustafson that the Town must ensure that its projects are done correctly and workers are treated well. Selectman Muratore concurred, but he cited Town Counsel's legal opinion that the bylaw is fatally flawed and not enforceable. Vice Chairman Provenzano speculated that Town Meeting could (a) consider suspending the bylaw, pending further action at the federal level (which may render the bylaw enforceable), or (b) suspend enforcement of the bylaw until further action by Town Meeting. Chairman Tavares expressed his belief that the Responsible Contractor Bylaw has served the community well, and, thus, he did not want to see it altogether discarded.

Ms. Arrighi recommended that the Town's Moderator discuss this matter with Town Counsel, to determine whether suspension of the bylaw—rather than elimination—is legally possible.

On a motion by Selectman Mahoney, seconded by Vice Chairman Provenzano, the Board voted to reconsider its recommendation on Article 7 of the 2014 Fall Annual Town Meeting. Voted 5-0-0, approved.

Selectman Mahoney made a motion to suspend the enforcement of the Town's Responsible Contractor Bylaw until a newly-crafted bylaw can be brought forth for consideration at a future Town Meeting.

Selectman Muratore questioned whether Selectman Mahoney's motion should be conditional on Town Counsel's approval. Selectman Mahoney stated that he did not want to make his motion conditional, but he noted that he would amend his motion to specifically identify the 2015 Fall Annual Town Meeting.

Selectman Page seconded Selectman Mahoney's amended motion to suspend the enforcement of the Town's Responsible Contractor Bylaw until a newly-crafted bylaw can be brought forth for consideration at the 2015 Fall Annual Town Meeting.

Vice Chairman Provenzano pointed to the complexities involved with what the Board has proposed, and, thus, he recommended that the Board simply vote to suspend the enforcement of the bylaw, pending further Town Meeting action.

Selectman Mahoney offered an amended motion to suspend the enforcement of the Responsible Contractor Bylaw, pending further Town Meeting action. Selectman Page seconded the amended motion and the Board voted 5-0-0 in favor.

UPDATE ON TREE REMOVAL AT BURIAL HILL

Ted Bubbins, Parks & Forestry Superintendent, provided a presentation to the Board regarding plans to remove trees at Burial Hill. Mr. Bubbins displayed an aerial plan to

illustrate the specific trees that have been identified for removal. On the map, he identified an area where significant erosion has occurred on the hill, due to the absence of grass. Mr. Bubbins explained that each tree has been given a priority for removal (or preservation), based on several factors, including the health of the tree, disruption to the historic elements of the site, and effect upon the growth of grass on the hill, etc. There are 27 trees identified as high-priority for removal, he noted, but there may be as many as 31 to 33, when all is said and done. Included in this list, Mr. Bubbins pointed out, are some significant beech trees that, while beautiful, are destroying the cemetery.

Mr. Bubbins informed the Board that he has scheduled a public hearing at 7:00 p.m. at Memorial Hall on November 10, 2014 to discuss these plans for tree work on Burial Hill.

Selectman Mahoney inquired about the hearing process for tree removal and the source from which this project will be funded. Mr. Bubbins informed the Board that, following the tree hearing, citizens are given the opportunity to submit written objections to the removal of any particular tree. With regard to funding, Mr. Bubbins indicated that some of the expenses will be covered by money that has been set aside for the project, while the remainder will come from restoration funds.

Chairman Tavares thanked Mr. Bubbins for his presentation and called for a five minute recess.

REQUEST FOR LETTER OF SUPPORT: MEDICAL MARIJUANA

WILLIAM NOYES WEBSTER FOUNDATION, INC.

Chairman Tavares reconvened the meeting at 8:25 p.m. to discuss the request from William Noyes Webster Foundation (“WNWF”) for a letter of support or non-opposition to the organization’s application to establish a medical marijuana cultivation facility at 30 Industrial Park Road. Chairman Tavares noted that the Board had voted at its meeting of September 30, 2014 to table its decision on the request, to allow time for the Town’s Director of Inspectional Services to respond to questions raised by opponents to the project.

Ms. Arrighi explained that, at the Board’s meeting of September 30, 2014, an attorney representing the owners of property at 42 Industrial Park Road argued that 30 Industrial Park Road is not eligible as a site for a medical marijuana facility, based on its proximity to the educational programs at 42 Industrial Park Road and a number of other programs within the park.

Ms. Arrighi indicated that she spoke with Paul McAuliffe, the Town’s Director of Inspectional Services, about the way by which he applied the Massachusetts Department of Public Health’s (“DPH”) regulations (regarding the proximity of medical marijuana facilities to schools or programs where children are known to congregate), when he considered a zoning permit for WNWF’s proposed facility. Mr. McAuliffe, she said, did consider the location of Pilgrim Academy in his review of the Department of Public

Health's regulations, but, measured from facility to facility, the building in which Pilgrim Academy is situated is outside of the 500' designated perimeter. The Fred Astaire Dance Academy—though within the 500' perimeter—was not considered in Mr. McAuliffe's review, Ms. Arrighi reported. The dance academy, she said, focuses on ballroom dance training, primarily for adults, and it does not appear to meet the definition of a location where children are known to congregate. Upon this further review, Ms. Arrighi explained, she feels confident that the Town has properly applied DPH's location guidelines.

Attorney Leslie Gordon spoke to the Board on behalf of WNWF. Attorney Gordon explained that WNWF seeks the Town's support (or non-opposition) for its proposal to situate a cultivation facility at 30 Industrial Park Road, as part of the application process with DPH. Attorney Gordon assured the Board that the facility at 30 Industrial Park Road will be for cultivation, only—there will be no patient services or dispensing of product at the discreet, safe, and secure facility. WNWF, Attorney Gordon said, has every intention to give back to the community, and the organization is excited to enter into a host agreement with the Town of Plymouth.

Chairman Tavares opened the discussion to public comment.

Robert Spencer, Town Meeting Member from Precinct 1, stated that many of the business owners in the Industrial Park with whom he has spoken do not support WNWF's proposal to situate its facility at 30 Industrial Park Road.

Everett Malaguti III, Town Meeting Member from Precinct 1, expressed opposition to the proposal and questioned whether WNWF had any intentions to meet with the members of the North Plymouth and West Plymouth Steering Committees.

Selectman Page noted that WNWF has already publicly stated that they would be willing to meet with the North Plymouth and West Plymouth Steering Committees.

Seeing no further public comment, Selectman Page made a motion that the Board issue a letter of non-opposition to William Noyes Webster Foundation's application to establish a medical marijuana cultivation facility at 30 Industrial Park Road, contingent upon the execution of a host agreement between the Town and the foundation. Vice Chairman Provenzano seconded the motion.

Selectman Muratore inquired whether the host agreement would be nullified, in the event that the location at 30 Industrial Park Road is determined to be ineligible by DPH standards. Ms. Arrighi indicated that the host agreement would not be nullified, but, naturally, the Town would have to revisit the agreement, if the facility cannot be situated at 30 Industrial Park Road.

Selectman Muratore sought to clarify that the Board does not have jurisdiction over whether WNWF can—or cannot—situate its facility at 30 Industrial Park Road. The Board, he said, does have the ability to enter into a host agreement with WNWF and consider whether to issue a letter of support or non-opposition.

Chairman Tavares indicated that he would not vote in favor of issuing a letter of support or non-opposition to any medical marijuana organization that wishes to situate a facility in the Town of Plymouth, based on his concern that DPH's application process is flawed. Though he supports the legality of medical marijuana, he said, the state must ensure that all regulations and processes are vetted and sound before proceeding with the issuance of licenses.

At the close of discussion, the Board voted 3-2 in favor of Selectman Page's motion to issue a letter of non-opposition to William Noyes Webster Foundation's application to establish a medical marijuana cultivation facility at 30 Industrial Park Road, contingent upon the execution of a host agreement between the Town and the foundation. Chairman Tavares and Selectman Mahoney cast the opposing votes.

COMMITTEE LIAISON / DESIGNEE UPDATES

Visit from Rotary Club of Plymouth, UK – Vice Chairman Provenzano reported that, on October 6, 2014, he and Chairman Tavares welcomed visitors from the Mayflower Rotary Club of Plymouth, United Kingdom. At the meeting, he said, both groups discussed their respective community's current projects and plans for the 400th Anniversary Celebration.

Plymouth 400, Inc. – Chairman Tavares informed the Board that he and Vice Chairman Provenzano attended the recent meeting of Plymouth 400, Inc., at which it was noted that the organization is only 60 orders away from reaching its goal of 1,500 commemorative license plate orders.

OLD BUSINESS / LETTERS / NEW BUSINESS

Simes House Restoration Project – Selectman Mahoney noted that he would like to set up a site visit at the Simes House, with members of the Simes House Foundation and the Community Preservation Committee. In addition, Selectman Mahoney requested a status update on the "Phase Two" bid for the Simes House Restoration Project.

Donation of Christmas Tree – Chairman Tavares issued a call to Plymouth residents for the donation of a Christmas tree for display in Town Square. If there is anyone that has a large tree that he/she would like to donate, he said, the Parks & Forestry Division will remove it.

Tour of Pilgrim Nuclear Power Station – Chairman Tavares reported that the Board will take a tour of Pilgrim Nuclear Power Station on Tuesday, October 14, 2014. The tour, he said, is informational in nature and no deliberations will take place, and, thus, the tour will not constitute a meeting of the Board.

Chapter 61 Lands / Notice of Intent to Sell – Michael Galla, Assistant Town Manager, provided the Board with a brief update on the Chapter 61 Notice of Intent to Sell related to 429 Sandwich Street. At this time, Mr. Galla said, the Notice is under review by some of the Town’s committees.

EXECUTIVE SESSION / ADJOURNMENT OF MEETING

On a motion by Vice Chairman Provenzano, seconded by Selectman Page, the Board voted at 8:50 p.m. to adjourn the open portion of the meeting and reconvene executive session pursuant to Massachusetts General Laws, Chapter 30A, Section 21, to conduct strategy sessions in preparation for contract negotiations with nonunion personnel, as an open meeting on this matter may have a detrimental effect on the negotiating position of the body. By roll call: Muratore – yes, Mahoney – yes, Provenzano – yes, Page – yes, and Tavares – yes.

Chairman Tavares 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 October 7, 2014 meeting packet is on file and available for public review in the Board of Selectmen’s Office.