

~ PLYMOUTH BOARD OF SELECTMEN ~

TUESDAY, JANUARY 31, 2012

TOWN HALL MAYFLOWER ROOM

The Selectmen held a meeting on Tuesday, January 31, 2012 at 6:30 p.m. at Town Hall in the Mayflower Room.

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

Mark Stankiewicz, Town Manager
Melissa Arrighi, Assistant Town Manager

CALL TO ORDER

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

EXECUTIVE SESSION

At 6:30 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: Harnais – yes, Muratore – yes, Mahoney – yes, Brewster – yes, and Hallisey – yes. Chairman Hallisey noted that the Board planned to reconvene in open session, following executive session.

RETURN TO OPEN SESSION

Chairman Hallisey reconvened the meeting in open session at 7:05 p.m. and led the Pledge of Allegiance.

TOWN MANAGER'S REPORT

“Mass in Motion” Grant Announcement at Jordan Hospital – noted that he, Chairman Hallisey, Selectman Muratore, and a number of Town officials attended an event on January 27, 2012 at Jordan Hospital to announce the receipt of a Mass in Motion Municipal Wellness Program Grant from the Massachusetts Department of Public Health.

The \$60,000 grant, he said, will enable the Town (in partnership with Jordan Hospital) to develop and implement policies and infrastructure that promote active and healthier living. Mr. Stankiewicz listed the four initiatives on which the grant will focus: Safe Routes to Schools, Complete Streets, Improving School Nutrition, and the Healthy Market Program.

LICENSES

EXTENSION OF HOURS

On a motion by Selectman Harnais, seconded by Vice Chairman Mahoney, the Board voted to grant an Extension of Hours to the following liquor license holder, as detailed below. Voted 5-0-0, approved.

- ❖ **Hilton Garden Inn** (Kelly Lajoie, 4 Home Depot Drive) requested an Extension of Hours, from 12:00 a.m. to 1:00 a.m.

CHANGE OF MANAGER

On a motion by Selectman Brewster, seconded by Selectman Harnais, the Board voted to approve a Change of Manager for the following liquor license holder, as detailed below. Voted 5-0-0, approved.

- ❖ **Pepper Dining Inc d/b/a Chili's Grill & Bar** (James Jones, 2 Plaza Way) requested a Change of Manager from Michael Feltch to James Jones. Background check shows no basis for denial.

ADMINISTRATIVE NOTES

Quitclaim Deed for 132-134 Court Street – The Board executed a *Quitclaim Deed* for property at 132-134 Court Street, identified as Lot 6B on Assessor's Map 14.

Acceptance of Deed for Plymouth Beach Property – The Board executed an *Acceptance of Deed* for property on Ryder Way, identified as Lot 350 on Map 37A, as authorized by Article 11 of the 2011 Fall Town Meeting.

Acceptance of Donation – The Board accepted, with gratitude, a donation of \$100.00 from Anne M. Babcock for safety equipment for the Police Department.

Simes House Items Postponed – Chairman Hallisey noted that two items related to property at 29 Manomet Point Road (also known as the Simes House) have been withdrawn from the list of Administrative Notes and postponed for another date.

PUBLIC COMMENT

Walter Morrison, owner of Morrison's Home & Garden, asked the Board to defer its decision on the Farmers' Market Request for Proposals ("RFP") until the Town's Agricultural Committee can have an opportunity to work upon a solution or process that would best benefit Plymouth's residents and farmers, alike. Citing his many years of experience in the agricultural business, Mr. Morrison emphasized the importance of the community farmers' market to the survival and promotion of local farms. As such, he said, the farmers' market RFP should not be based solely on the amount of money that the potential market operator can offer to the Town, as, in his opinion, this will only drive up the cost for the participating farmer. Mr. Morrison acknowledged the challenge faced by the Town to resolve disputes over the use of public space, but he also stated his belief that the Town should pause to get a better idea of what residents and farmers need before rushing into the RFP process.

Rabbi Silverman of Congregation Beth Jacob asked the Board to find a means of resolving the conflict posed by the date on which the 2012 Spring Town Meeting is scheduled to take place, this year. The April 7th Town Meeting, he said, is slated to fall on the first day of Passover and the day before Easter. Rabbi Silverman stated his belief that the Commonwealth gives Selectmen some discretion with regard to the date of Town Meeting, and, therefore, he expressed his hope that the Board will intervene and reschedule Town Meeting to a more suitable date.

PUBLIC HEARING: SEASONAL ALL ALCOHOL RESTAURANT LICENSE PILLORY PUB, LLC, 72 WATER STREET

Chairman Hallisey opened a public hearing to consider the application for a new Seasonal All Alcohol Restaurant Liquor License from Pillory Pub, LLC, 72 Water Street, Benjamin J. Parsons as Manager. Chairman Hallisey 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 Richard Serkey addressed the Board on behalf of Jack Parsons, Benjamin Parsons, and Laurie Gibbs of Pillory Pub, LLC. Formerly utilized as a pub (years ago), the location at 72 Water Street has, in recent years, housed a gift shop and small take-out restaurant, Attorney Serkey said. The proposed pub will contain 50 seats, he indicated, which is the maximum allowed under the Town's Zoning regulations before further approval or special permit is needed. Attorney Serkey informed the Board that the pub's menu will consist of seafood, sandwiches, soups, and salads, with Jack Parsons as the cook and his children as the managers. The Parsons family, he noted, has invested nearly \$250,000 to renovate the location and add living quarters for a family member above the restaurant.

Seeing no questions from the Board, Chairman Hallisey opened the hearing to public comment. No citizens came forth to address the Board regarding the license application,

and, therefore, Chairman Hallisey closed the hearing to await a motion of the Board.

On a motion by Selectman Muratore, seconded by Selectman Harnais, the Board voted to grant a Seasonal All Alcohol Restaurant Liquor License to Pillory Pub, LLC, 72 Water Street, as requested in the license application. Voted 5-0-0, approved.

LICENSES IN CONJUNCTION WITH A PUBLIC HEARING

On a motion by Selectman Muratore, seconded by Selectman Harnais, the Board voted to approve the following licenses for Pillory Pub, LLC, as detailed, below. Voted 5-0-0, approved.

- ❖ **Pillory Pub, LLC**, 72 Water Street, Benjamin Parsons, Manager is requesting the following licenses in conjunction with the request for a new Seasonal All Alcohol Restaurant Liquor License:
 - Comprehensive Entertainment – Jukebox, Radio, TV
 - Common Victualler

DISCUSSION ON THE ISSUANCE OF A FARMERS' MARKET RFP

Assistant Town Manager Melissa Arrighi reported that she met with the Town's Procurement Officer to review the bids submitted in response to the Town's Farmers' Market Request for Proposals ("RFP"). This type of bid, she explained, would not normally be brought before the Selectmen (as the Town Manager is the approving authority for Town contracts), but with the amount of public interest in this matter, staff thought it would be best to share information about the bid selection process during the Selectmen's meeting.

Ms. Arrighi indicated that three proposals were submitted in response to the RFP. The first bid, submitted by Plymouth Farmers' Market, LLC contained conditional requests, rendering it ineligible. The second bid, submitted by Marie E. Foley, was fairly complete but did not offer responses to some of the bid specifications.

Ms. Arrighi informed the Board that the third bid, submitted by Explore Historic Plymouth, was a high-quality, complete proposal with no conditions. In addition, she noted, the proposal from Explore Historic Plymouth was the most financially advantageous to the Town.

To that end, Ms. Arrighi stated, the Town Manager's Office has recommended that the Farmers' Market RFP be awarded to Explore Historic Plymouth.

Ms. Arrighi responded to some brief questions from the Board with regard to the bid selection process. Chairman Hallisey acknowledged how contentious the matter of the farmers' market and the conflict over the use of Stephens Field became over the past year, much of which, he said, the public and Town officials were not aware. As such, Chairman

Hallisey noted that he would like to allow the Town Manager and Assistant Town Manager to go forth in the direction that they see fit regarding the bid award.

Ms. Arrighi encouraged members of the public to contact her or visit her office to review the bids and/or inquire about the RFP process.

2012 SPRING ANNUAL TOWN MEETING ARTICLES

ARTICLE 3

To see what action the Town will take under the provisions of M.G.L. Chapter 44, subsection 53E^{1/2} regarding the establishment, annual reauthorization, or renewal, as the case may be, of revolving funds, or take any other action relative thereto.

BOARD OF SELECTMEN

Ms. Arrighi explained that Article 3 is a standard article through which Town Meeting may annually authorize the Town's revolving funds, which are accounted for separately from all other Town monies. Ms. Arrighi referred the Board to the chart of revolving funds provided by the Finance Director for specific information and recommendations on each fund.

Selectman Muratore made a motion to recommend Article 3 to the 2012 Spring Annual Town Meeting. Vice Chairman Mahoney seconded the motion.

Selectman Harnais inquired if there were any revolving funds that could cover all of Plymouth's beaches, collectively. When the Town sometimes runs into expenditures for White Horse Beach, for example, it would be helpful if the Beach Revolving Fund could be utilized for such expenses, he said.

Ms. Arrighi explained that the Plymouth Beach Fund is built on revenues from non-resident parking fees at Plymouth Beach. Recreation Director Barry DeBlasio echoed Ms. Arrighi's comments, noting that, because there are no parking fees collected at White Horse Beach, there is no dedicated funding source for White Horse Beach expenditures.

At the close of discussion, the Board voted 5-0-0 in favor of recommending Article 3 to the 2012 Spring Annual Town Meeting.

ARTICLE 5

To see if the Town will vote to amend the Classification and Compensation Plans and the Personnel By-Law and Collective Bargaining Agreements contained therein, or take any other action relative thereto

BOARD OF SELECTMEN

Ms. Arrighi provided a brief explanation of the changes proposed to the Town's Collective Bargaining Agreements and Personnel Bylaw (for non-union employees). Article 5, she

explained, reflects an agreement reached with the Plymouth Firefighters IAFF AFL-CIO Local 1768 for the contract period of July 1, 2009 through June 30, 2012. The amendment to the Personnel Bylaw, she said, eliminates the requirement that the Town pay for an employment candidate's physical exam and drug screening.

On a motion by Selectman Muratore, seconded by Selectman Harnais, the Board voted to recommend Article 5 to the 2012 Spring Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 17A

To see if the Town will vote to raise and appropriate or transfer a sum of money from available funds to fund a contract to assist the School Department in recovering Medicaid reimbursements, or taken any other actions relative thereto.

ARTICLE 17B

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to fund the transportation costs of out of district Agricultural Vocational students, or take any other action relative thereto.

SCHOOL COMMITTEE/BOARD OF SELECTMEN

Mr. Stankiewicz noted that the Board had questioned why the School Department expenses referred to in Articles 17A and 17B are not simply included in the School Department's budget. The School Department, he said, can include these expenses in their departmental budget, but the expense and funding source (the Town's General Fund) would essentially remain the same.

On a motion by Selectman Harnais, seconded by Selectman Muratore, the Board voted to recommend Article 17A to the 2012 Spring Annual Town Meeting. Voted 5-0-0, approved.

On a motion by Selectman Muratore, seconded by Selectman Harnais, the Board voted to recommend Article 17B to the 2012 Spring Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 18

To see if the Town will vote to increase the rate of interest that accrues on property taxes deferred by eligible seniors under G.L. c.59, §5, Clause 41A to 4%, with such rate to apply to taxes assessed for any fiscal year beginning on or after July 1, 2012, or take any other action relative thereto.

BOARD OF SELECTMEN

Anne Dunn, Director of Assessing, presented Article 18, a proposal to adopt a tax-deferral rate for qualifying Plymouth homeowners who are over the age of 65. Ms. Dunn indicated that Chapter 59 of the Massachusetts General Laws allows municipalities the ability to set the interest rate at which the deferred taxes accrue, so long as it does not exceed the State's annual rate of 8%.

Ms. Dunn explained the process and criteria by which Plymouth's seniors can apply for the tax deferral. The Advisory & Finance Committee, she indicated, has recommended that the Town set its accrual rate at a fixed percentage of 4%. If adopted by Town Meeting, she said, the deferral rate would become effective for FY2013.

Mr. Stankiewicz explained his belief that the Advisory & Finance Committee recommended a 4% rate, simply to be consistent with current loan rates.

Following some brief remaining discussion, Selectman Muratore made a motion to recommend Article 18 to the 2012 Spring Annual Town Meeting. Vice Chairman Mahoney seconded the motion, and the Board voted 5-0-0 in favor.

ARTICLE 19

To see if the Town will vote to amend Chapter 23 of the General Bylaws, as recommended by the Town Clerk and on file with the Town Clerk's Office and entitled 'Proposed Changes to Chapter 23 General Bylaws Concerning Kennels', dated January 12, 2012, or take any other action relative thereto.

BOARD OF SELECTMEN

Ms. Arrighi reported that the Town Clerk has brought Article 19 forth in response to receiving the first application submitted to the Town for a boarding kennel. The Clerk, she said, has proposed to amend the General Bylaws by (1) adding a definition of a boarding kennel as a "temporary collection of dogs" and (2) outlining a process by which a business person can apply for the ability to operate a boarding facility.

On a motion by Selectman Harnais, seconded by Selectman Muratore, the Board voted to recommend Article 19 to the 2012 Spring Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 20

To see if the Town will vote to amend the General Bylaws, Chapter 23, Animals, Article 1, Dog Control, as follows:

(1) By inserting in §23-1 the following new definition:

VICIOUS - - Dogs meeting the following descriptions, as determined by the Animal Control Officer, shall be considered vicious:

- A. Any dog found to, without provocation, attack, threaten or terrorize any person on any public ground including streets and sidewalks.**
- B. Any dog with a history of attacking without provocation or has caused injury to any human being or domestic animal.**
- C. Any dog that bites, injures, assaults, or attacks a human being or domestic animal.**
- D. Any dog found to be involved or trained in dog fighting.**
- E. Provided, however, that notwithstanding the above criteria, no dog may be considered vicious for inflicting injury or damage to a person who:**
 - i. is found to be willfully trespassing or in the process of any other tort offense on the property of the animal's owner; or**
 - ii. teases, torments, abuses, or assaults the dog.**

(2) By amending §23-2 by deleting the text of §23-2(A) (4) and inserting in place thereof the following, "If found to be a vicious dog."

- (3) By amending §23-2 by deleting §23-2(A)(5) and renumbering the remaining content accordingly;
- (4) And further, by amending §23-21, Classification, by deleting the word “pitbulls” and inserting, after the words “wolves” the following, “Any dog found to be vicious under Section 23-1 of the Town Bylaws.”

Or take any other action relative thereto.

BOARD OF SELECTMEN

Ms. Arrighi provided a brief explanation of Article 20, noting that the Town Manager’s Office has been asked numerous times to update its bylaws pertaining to the keeping of wild and/or exotic animals. The Town’s long-standing bylaw, she said, includes Pit Bulls within the list of creatures requiring a Wild Animal Permit, but as the Pit Bull breed has become more domesticated over time as a family pet, residents have contended that the bylaw singles-out the breed, regardless of the individual pet’s behavior. Ms. Arrighi explained that the proposed amendment, prepared by the Town Manager’s Special Assistant, Patrick O’Brien, would effectively remove Pit Bulls from the list of Wild Animals and base the requirement for a Wild Animal Permit for any canine on the pet’s actual behavior.

On a motion by Selectman Muratore, seconded by Selectman Harnais, the Board voted to recommend Article 20 to the 2012 Spring Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 21

To see if the Town will vote to amend the General Bylaws by inserting a new section, Chapter 164, entitled “Stretch Energy Code”, for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the “Stretch Energy Code”, including future editions, amendments or modifications thereto, a copy of which is on file with the Town Clerk, or take any other action relative thereto.

BOARD OF SELECTMEN

Patrick O’Brien, Special Assistant to the Town Manager and staff liaison to the Town’s Energy Committee, introduced a presentation on a proposal to incorporate the “Stretch Energy Code” within Plymouth’s Zoning Bylaws. Mr. O’Brien introduced Greg Krantz of the Energy Committee and Seth Pickering from the Massachusetts Department of Energy Resources.

Mr. Krantz, an energy efficiency consultant by trade, led the presentation on the Stretch Energy Code (heretofore referred to as “Stretch Code”). Before commencing the presentation, Mr. Krantz affirmed he is advocating for Article 21 as a Plymouth resident and member of the Town’s Energy Committee.

Mr. Krantz’s presentation encompassed the following information:

The “Stretch Code” is a set of optional amendments that municipalities may adopt within its base energy efficiency codes pertaining to new residential construction, commercial construction, and additions/renovations that would normally trigger building code

requirements. To date, 86 communities within Massachusetts have adopted the Stretch Code. There are two paths that can be pursued when adhering to the Stretch Code: “Prescriptive” or “Performance.” The Prescriptive path follows the base requirements of the Stretch Code, while the Performance path is an optional means of enhancing the structure’s energy efficiency beyond the base requirements. The Stretch Code requires that the structure be inspected by a certified third-party to determine the building’s Home Energy Rating System (“HERS”), which is governed by the Residential Energy Services Network (“RESNET”). Essentially, the intent of the Stretch Code is to encourage home and business owners to install more energy efficient windows and improved insulation. The State is expected to adopt the Stretch Code as the base energy code to which all municipalities must adhere in 2013.

Mr. Krantz concluded his presentation with cost estimate scenarios and case studies illustrating the potential added cost that the Stretch Code may cause for the home or business owner. Both Mr. Krantz and Mr. Pickering responded to questions from the Selectmen with regard to the requirements of the code. Mr. Pickering provided information on the five specific criteria required for a municipality to be designated by the State as a “Green Community.” Both Mr. Krantz and Mr. Pickering sought to explain that, while Stretch Code requirements may cost the homeowner additional money during construction, the energy savings achieved by such measures will always provide a return on the initial investment.

Chairman Hallisey acknowledged that he agrees with the sensibility of energy efficiencies but noted his concerns about mandating such measures in the Town’s Building Code. Selectman Muratore made an observation that the real question before the Board may be whether or not it wants Plymouth to qualify as a Green Community. Selectman Harnais agreed with Selectman Muratore and stated his wish that the Town achieve Green Community status.

On a motion by Selectman Harnais, seconded by Selectman Muratore, the Board voted to recommend Article 21 to the 2012 Spring Annual Town Meeting. Voted 5-0-0, approved.

ARTICLE 23

To see if the Town will vote to transfer the care, custody, management and control of a certain parcel of land shown as Lot 23 on Assessors Map 19 from the School Department for school purposes to the Board of Selectmen for general municipal purposes or for the purpose of conveyance, including sale, transfer or lease, and further, to authorize the Board of Selectmen to convey said land pursuant to the requirements of G. L. c. 30B, the Uniform Procurement Act, and on such terms and conditions as may be deemed to be in the best interests of the Town, or take any other action relative thereto.

BOARD OF SELECTMEN

Ms. Arrighi informed the Board that the parcel of land to which Article 23 refers is a portion of the Burial Hill parking lot, located on South Russell Street. The lot, she explained, was associated with an old schoolhouse that existed where the former Police Station facility now stands. In 1997, Ms. Arrighi indicated, Town Meeting voted to transfer a number of the old school parcels from the care and custody of the School

Department to the care and custody of the Selectmen. For reasons unknown, however, this particular parcel was not transferred as part of the 1997 vote. Without knowing the fate of the old Police Station and nearby 1820 Courthouse, Ms. Arrighi stated that it would be sensible to make this parcel consistent with the surrounding parcels.

On a motion by Selectman Muratore, seconded by Selectman Harnais, the Board voted to recommend Article 23 to the 2012 Spring Annual Town Meeting. Voted 5-0-0, approved.

BOARD LIAISON / DESIGNEE UPDATES

The Selectmen did not offer any committee liaison / designee updates this week.

OLD BUSINESS / LETTERS / NEW BUSINESS

Performance Stage for Pilgrim Memorial State Park – Selectman Brewster announced that the Plymouth Area Chamber of Commerce is working with the Massachusetts Department of Conservation & Recreation (“DCR”) on the construction of a permanent stage / performance space at Pilgrim Memorial State Park. The Plymouth Industrial Development Corporation (“PIDC”) has offered to donate \$200,000 towards the project, she reported, and DCR has agreed to accept the donation and move forth with the project. Selectman Brewster thanked Chamber Director Denis Hanks and PIDC Chairman Ed Santos for their efforts to conceptualize and fund the performance space, which, she said, will benefit tourists and residents, alike.

Buoy Markings at Pilgrim Station – Selectman Muratore asked the Town Manager to notify Entergy that some of the buoys surrounding the “no boating” zone around the Pilgrim Nuclear Power Station are not clearly marked. Mr. Stankiewicz responded that he had already spoken with Entergy officials regarding this concern.

ADJOURNMENT OF MEETING

On a motion by Selectman Harnais, seconded by Vice Chairman Mahoney, the Board voted to adjourn its meeting at 8:40 p.m. Voted 5-0-0, approved.

Recorded by Tiffany Park, Clerk to the Board of Selectmen

A copy of the January 31, 2012 meeting packet is on file and available for public review in the Board of Selectmen’s office.